

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
ANTHONY B. NELSON,

Plaintiff,

-against-

Case No.  
18-CV-11413

DIANE ARGYROPOULOUS, PHILIP  
ARGYROPOULOUS, CHRIS ORSARIS, ALEX  
LETTAS, VICTORY AUTO GROUP, LLC,  
SPARTAN AUTO GROUP, LLC, VICTORY  
MITSUBISHI, MITSUBISHI NORTH AMERICA,

Defendants.

-----x  
55 Hudson Yards  
New York, New York

September 13, 2019  
9:45 a.m.

DEPOSITION of the  
Plaintiff, ANTHONY B. NELSON, taken by the  
attorneys for their respective parties,  
pursuant to Notice, held at the above-noted  
time and place, before Alison Dunne, a  
Shorthand Reporter and Notary Public of  
the State of New York.

ORIGINAL

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2 A P P E A R A N C E S :

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MILBANK LLP

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Attorneys for Plaintiff

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55 Hudson Yards, 33rd Floor  
New York, New York 10001

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BY: EMILY LILBURN, ESQ.  
and MARIA ORTIZ, ESQ.

7

8 STEPHEN D. HANS & ASSOCIATES, P.C.  
Attorneys for Defendants  
9 Diane Argyropoulos, Philip  
Argyropoulos, Chris Orsaris, Alex  
10 Lettas, Victory Auto Group, LLC,  
Spartan Auto Group, LLC, and Victory  
Mitsubishi  
11 45-18 Court Square West  
Suite 403  
12 Long Island City, New York 11101

13

BY: STEPHEN D. HANS, ESQ.

14

15 SEGAL McCAMBRIDGE SINGER & MAHONEY, LTD.  
Attorneys for Defendant  
16 Mitsubishi North America  
17 850 Third Avenue, Suite 1100  
New York, New York 10022

18

BY: ANDREW P. KATES, ESQ.

19

Also Present:

20

DIANE ARGYROPOULOUS  
PHILIP ARGYROPOULOUS  
CHRIS ORSARIS

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IT IS HEREBY STIPULATED AND  
AGREED by and between the attorneys for the  
respective parties hereto that the sealing,  
filing and certification of the transcript of  
the within examination before trial be, and  
the same hereby are waived.

9

10

IT IS FURTHER STIPULATED AND  
AGREED that said transcript may be signed and  
sworn to before any Notary Public or  
Commissioner of Deeds with the same force and  
effect as if signed and sworn to before an  
officer of this Court.

16

17

IT IS FURTHER STIPULATED AND  
AGREED that all objections, except as to the  
form of the questions, are reserved to the  
time of the trial.

21

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MR. HANS: Can I have these  
marked, please.

4

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(Whereupon, at this time, the  
reporter marked the above-mentioned  
documents as Defendants' Exhibits A  
through N, respectively, for  
identification.)

9

A N T H O N Y      B.      N E L S O N ,      the  
Plaintiff herein, residing at 12B Broun  
Place, Bronx, New York 10475, after  
having been first duly sworn by a Notary  
Public of the State of New York,  
testified as follows:

15

EXAMINATION BY STEPHEN D. HANS, ESQ.:

16

17

Q      State your name for the record,  
please.

18

A      Anthony B. Nelson.

19

20

Q      State your address for the  
record, please.

21

22

A      12B Broun Place, Bronx, New York  
10475.

23

24

25

Q      Mr. Nelson, have you ever

testified in a deposition, a setting like this  
before in your life?

© B. N. N. 5

2 A Yes, I have.

3 Q In what kind of a case did you  
4 testify in?

5 A A Title 7 case.

6 Q Were you a party in that case or  
7 not? Were you a plaintiff or a defendant?

8 A I was a plaintiff.

9 Q Who did you sue?

## 10 A Telecommunication Resources

11 Q When was that?

12 A Probably ten years

13 Q Do you have any papers or any  
14 notations to be able to identify the docket  
15 number of that case?

16           A         No, I don't. I would have to  
17 look for it. I don't know if I have it or  
18 not. It's ten years ago.

19 Q In what court was it in? Was it  
20 in New York?

21 A 500 Pearl Street

22 Q It was in the Southern Province.

23 A Southern District

24 Q The company that you sued, what  
25 was the name?



1

A.B. Nelson

7

2 that you --

3 A No, sir.

4 Q One of the things I should  
5 instruct you on is, even though you know an  
6 answer to a question that I am asking, you  
7 have to give me the courtesy and I will give  
8 you the courtesy back of waiting for me to  
9 finish asking the question and then when you  
10 are testifying, I will not interrupt you.

11 Okay? Do you understand that?

12 A Yes.

13 Q If you don't understand a  
14 question that I ask you today, I would ask you  
15 to ask me to either repeat it or explain what  
16 I mean or whatever way that you can understand  
17 I will do, but I will wait for the answer and  
18 you will wait for the question.

19 A Yes.

20 Q Are you under any medication or  
21 drugs right now that would affect your ability  
22 to testify today?

23 A No. I am under medication, but  
24 not to affect my ability.

25 Q What medication are you on?

1 A.B. Nelson

2 A For diabetes.

3 Q Have you checked your blood sugar  
4 level for today at all?

5 A No, I haven't.

6 Q Do you feel that you are  
7 physically able to testify today with truthful  
8 answers?

9 A Yes.

10 Q With whom do you reside at the  
11 address that you have given?

12 A I reside with myself.

13 Q Is there anybody else that  
14 resides with you?

15 A No.

16 Q Can you tell me your education  
17 level, where you went --

18 A Two years of college. I went  
19 to --

20 Q Again, Mr. Nelson, just allow me  
21 to finish my question because there's more  
22 that I was going to say. Go ahead, sir.

23 A I went to -- well, it's New York  
24 Tech now, but it was Brooklyn Community at the  
25 time.

A. B. N. J.

2 Q Was there any major that you had,  
3 anything that you studied? Was there any  
4 emphasis in any one --

5 A Automotive engineering.

6 Q Did you get an associate's degree  
7 from that college?

8           A        I did not get a degree from that  
9 college, no.

10 Q The name of the college was what?

11           A         Brooklyn Community. It's now  
12        called New York Tech.

13 Q Why did you not get a degree from  
14 that after two years?

15 A I believe I might have gone on  
16 into a different related business and I just  
17 did not get it.

18 Q What business was that?

19 A Working on vehicles

20 Q When you say working on vehicles,  
21 do you mean being a car mechanic?

22 A Something like that, yes.

23 Q Why don't you tell me what  
24 something like that means? Just tell me  
25 exactly what you did?

1 A.B. Nelson

2 A Exactly what I did?

3 Q Yes. When you left --

4 A Right.

5 Q Please, sir. I'm going to keep  
6 reminding you. You have to let me finish the  
7 question.

8 A Sorry.

9 Q When you left Brooklyn Community,  
10 you left there before you got a degree and you  
11 went to work in the automotive business; is  
12 that correct?

13 A Yes.

14 Q Was it as a car mechanic? You  
15 tell me what it was?

16 A Yes, a car mechanic.

17 Q Who did you work for?

18 A I worked for Tony Corallo  
19 (phonetic).

20 Q Tony Corallo is an individual,  
21 correct?

22 A Yes, he is.

23 Q Did you work for him or a  
24 business that he owned?

25 A I worked for him and his business

1

A.B. Nelson

11

2 that he owned.

3 Q What was the name of his  
4 business?

5 A Well, he had some different gas  
6 stations and he also had top fuel dragster, a  
7 race car.

8 Q Do you have this gentleman's  
9 contact information?

10 A No.

11 Q How long did you work for him?

12 A I don't recall. That's a very  
13 long time ago.

14 Q After you worked for him, did you  
15 go to work for anybody else?

16 A I had jobs, yes. I worked.

17 Q Please tell me the jobs that you  
18 had? Let us start from the beginning. When  
19 did you go to work for the fellow named Tony?  
20 What year was that?

21 A Probably somewhere in the late  
22 70's, somewhere around there.

23 Q Let us take the decade of the  
24 80's. Where did you work?

25 A In the 80's?

1

A.B. Nelson

12

2

Q Anywhere from 1980 to 1990?

3

A I was in transportation. I  
4 worked for my family's business and then I  
5 went into business for myself. I bought  
6 trucks, interstate transportation-type  
7 vehicles.

8

Q What was the name of your  
9 business?

10

A The name of my business?

11

Q Yes. You said you went into  
12 business for yourself. Did it have a name?

13

A I worked under -- my vehicles  
14 were underneath -- I run under my broker's  
15 authority. I run under their authority and  
16 that was Gamble out of Orange, California.

17

Q Did the business that you ran  
18 with your trucks, did it have a business name?

19

A I was doing business as Tony  
20 Nelson. There's no name. The owner/operator  
21 is Tony Nelson, but we are allowed to run  
22 under other people's ICC. If you don't have  
23 authority, you can run under someone else's  
24 ICC, Interstate Commerce Commission authority.  
25 The name was Gamble. Sometime after that I

1 A.B. Nelson

2 went to work -- when I worked for my cousin,  
3 it was Schneider National, but for me that  
4 was -- I worked underneath the authority of my  
5 broker's.

6 Q How long did you work in the  
7 interstate vehicle business under Mr. Gamble?  
8 How long did you do that?

9 A Until he went out of business.

10 Q What year was that?

11 A Somewhere around '93 or something  
12 like that.

13 Q Who did you go to work for after  
14 that?

15 A Donco Transportation.

16 Q Sorry?

17 A Donco, D-O-N-C-O.

18 Q Where are they located?

19 A They're located in Oklahoma City.  
20 They also have a hub in Atlanta, Georgia.

21 Q What did you do for them?

22 A The same thing, you know,  
23 refrigerated express, foods.

24 Q When you say the same thing, what  
25 do you mean?

1 A.B. Nelson

2 A The same thing that I was doing.

3 Q What was that thing?

4 A Produce, food, you know, food  
5 that goes from state to state. If you have  
6 produce, it goes from California -- it goes  
7 from California and comes to New York and it  
8 might go to Maryland. It might go, you know,  
9 depending on where.

10 Q So you were transporting food?

11 A Yes.

12 Q How long did you work for Donco?

13 D-O-N-C-O is the spelling?

14 A Donco Carriers.

15 Q Do you know if they are still in  
16 business?

17 A No, they're not.

18 Q How long did you work for Donco  
19 Transportation?

20 A A few years I was there.

21 Q That was in the 90's; is that  
22 correct?

23 A Yes.

24 Q After you left Donco, where did  
25 you go work?

1 A.B. Nelson

15

2           A         Let me see. That's a good  
3 question because we're talking like thirty-  
4 something years ago now.

5 Q Actually, I'm talking about in  
6 the 90's.

7                   A         Well, it's twenty-seven years  
8 ago.

9                   Q         After Donco, I'm interested in  
10          your jobs.

11 A I don't recall this very second.

12 Q Do you have anything at home that  
13 would be able to help you recollect who you  
14 worked for?

15 A It's possible, but I'm not going  
16 to say that I do.

17 Q Between the early 90's and the  
18 time you went to work for Victory, do you  
19 remember any one employer that you worked for?

20 A Sure. I worked for East  
21 Brunswick GMC Buick Pontiac on Route 18. I  
22 worked at Chevrolet Saturn.

23                   Q         Let us go a little slower. The  
24 Eastern --

25 A East Brunswick. It's a town in

1                           A.B. Nelson

2 New Jersey off of Route 18.

3                           Q         That's a car dealership?

4                           A         Yes, it is.

5                           Q         What did you do there?

6                           A         Sales.

7                           Q         How long did you work there?

8                           A         I was there until he opened up  
9 his new store in New York City, so I was there  
10 maybe a year or so.

11                          Q         When you left there, where did  
12 you go?

13                          A         Chevrolet Saturn in New York,  
14 which was, I think it was nicknamed the Harlem  
15 Auto Mall. That's also gone.

16                          Q         That was in Manhattan?

17                          A         Yes.

18                          Q         How long did you work there?

19                          A         Maybe about a year -- about a  
20 year.

21                          Q         After you left Chevrolet, where  
22 did you go work?

23                          A         I don't recall.

24                          Q         I see you're looking at your  
25 counsel, which is fine. If you need to take a

1

A.B. Nelson

17

2 break and talk to your attorney, you're  
3 perfectly welcome to do that, but when a  
4 question is open, you cannot look to your  
5 counsel for help in the answer. Do you  
6 understand that?

7 A  $[\text{h}-\text{h}]_B$

9 A EUGENE S.

10 Q Do you understand what I just  
11 said?

12 A What Is Life?

13                   Q         When a question is asked of you  
14 and you are not sure of it, it is improper for  
15 you to look at your attorney for help in  
16 answering that question. Do you understand  
17 those instructions?

18 A Okay

19 MS. LILBURN: Unless you are not  
20 sure whether or not it is privileged, a  
21 privileged issue.

22                   THE WITNESS: Well, I wasn't  
23 sure, so that's why I looked.

MS. LILBURN: If you don't understand the question, you can let Mr.

A.B. Nelson

18

4

Hans know.

1

Q All I'm simply trying to ask you  
4 is after you left Chevrolet to the time you  
5 left for the Victory, the names of your  
6 employers that you worked for between whatever  
7 time that was in the 90's until the time you  
8 worked for Victory?

9

10 go backwards now --

11

11 Q You can go backwards or forwards,  
12 whatever suits you.

13

A        In the 90's after I liquidated my  
14      last piece of equipment, I went to work for a  
15      friend of mine, DMP Contracting. He asked me  
16      to come to work for him. I'm also a  
17      specialist in moving heavy equipment,  
18      specializing in oversize, so I went to work  
19      for him. I worked there for three years.

20

That was the Beachwood case, DMP Beachwood.

21

else that you remember?

23

A I don't remember.

24

25

4

516-485-2222

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212-327-3500

1 A.B. Nelson

2 before the Victory, before the Victory job?

3 A After Chevrolet, okay, which was  
4 the recession, after Chevrolet I went to work  
5 for Telecommunication Resources. I stepped  
6 away from the car business.

7 Q After Telecommunication, did you  
8 go to work for Victory?

9 A After Telecommunication?

10 Q Yes.

11 A Well, Victory came after  
12 Telecommunication. I'm not saying directly  
13 after, but after.

14 Q Is there anything in between --

15 A I'm trying to remember right now.

16 Q If you don't remember, you can  
17 say that.

18 A Well, I don't recall.

19 Q Are you employed today?

20 A Right now?

21 Q Not right this minute. Today you  
22 are at a deposition. I'm asking you if you  
23 were generally employed yesterday, tomorrow or  
24 Monday?

25 A I'm not employed right now.

1 A.B. Nelson

2 Q So you are unemployed?

3 A Yes.

4 Q Have you had any job --

5 A Yes. Sorry.

6 Q Have you had any job since the  
7 time you left Victory?

8 A Yes.

9 Q What jobs have you had?

10 A I left Victory and I worked for  
11 Toyota for about six months.

12 Q When you say Toyota --

13 A Toyota, Citywide Toyota.

14 Q Where is Citywide?

15 A It's about two miles from  
16 Victory.

17 Q What did you do for them?

18 A Sell cars.

19 Q How long did you work for Toyota

20 A About six months.

21 Q Why did you leave there?

22 A I left there because the manager  
23 there -- they get a lot of foreign people that  
24 come in there and there was a language barrier  
25 situation, so even though I was making nice

7

A.B. Nelson

21

2 money there, a lot of times I couldn't get a  
3 lot of customers because they're always  
4 calling for somebody that was a bilingual  
5 salesperson.

6 Q Did you leave there voluntarily  
7 or involuntarily?

8           A        You can say involuntarily. We  
9   sat down and talked about it. I really wanted  
10 to speak about it, but I just thought at the  
11 time -- I just thought -- that's how he felt  
12 and I just -- I just left, you know. I felt  
13 that I wasn't selling enough cars because I  
14 was not bilingual and so be it. I left. That  
15 gave me time to focus more on this right now.

16 Q So it was an involuntary  
17 departure. They asked you to leave?

18 A They asked me to leave and I  
19 could have, more than likely, you know -- they  
20 asked me to leave and I left.

21 Q Have you been employed anywhere  
22 else since that time?

23 A No. I'm unemployed right now.

24 Q I want to get into this case that  
25 you are here today for. Before we start

$$1 \quad \quad \quad A \quad B \quad \quad M=3$$

22

2 getting into the case, what are you suing  
3 Victory for?

4                   A         Age discrimination, racial  
5 discrimination, hostile work environment, wire  
6 fraud. I don't have the papers in front of  
7 me, but I think you have most of it.

8 Q I'm going to show you what was  
9 marked as Exhibit A and that appears to be an  
10 EEOC intake questionnaire dated September 21,  
11 2017; is that correct?

12 A yes

13 Q Did you fill this out around  
14 September 21, 2017?

15 A Yes, I did.

16 Q I also want to show you what has  
17 been marked as Exhibit B, which is an EEOC  
18 complaint, as well; is that correct, Mr.  
19 Nelson?

20 A Yes, sir

21 Q If you notice the date on Exhibit  
22 B, I believe there's a June date on that?

23 A Yes.

24 Q June 2018; is that correct?

25 A Yes

1

A.B. Nelson

2

Q The intake questionnaire which is  
3 Exhibit A is dated September 2017. Can you  
4 tell me and explain to me why there were two  
5 different filings at the EEOC, one in 2017,  
6 and that was only a questionnaire, and then in  
7 2018 you actually filed the complaint?

8

A Okay. When you go to the EEOC  
9 and when you go there, you can fill out the  
10 questionnaire. They give you, I believe, so  
11 many days -- I believe they give you 300 days.  
12 They give you close to probably maybe  
13 three-quarters of a year or whatever. There  
14 is an expansion in time that you can move  
15 forward with your complaint. What happened is  
16 I went on the 21st immediately after what  
17 happened, and I went there. Now, the  
18 investigator, every time I would call, because  
19 for months I was calling up the EEOC and I was  
20 leaving messages on the number that he gave  
21 me, and I never, never, never got a response.  
22 To make a long story short, I got on the  
23 train. I took the two-hour ride down there  
24 and it turned out that he had retired and  
25 nobody put me with -- nobody took my folder

1

A.B. Nelson

24

2 and handed it to another investigator. They  
3 didn't do it. What happened was I was still  
4 within the grace period. They gave me another  
5 investigator.

Now, Exhibit B, they wanted to take the complaint then and so although I had that grace period, I had not put together the actual complaint, and they allow you that. You're allowed to make a complaint and they give you an investigator and it just say there. The reason it sat there is because nobody explained to me until I actually went back down there in person.

15 Q So what you are saying is, and  
16 correct me if I am wrong, when you say what  
17 happened -- when you refer to what happened,  
18 you're talking about what happened at Victory,  
19 with you and Victory, correct?

20 A No, what happened, because there  
21 are two separate intake dates we're talking  
22 about, I thought.

23 Q Right, but when you went there in  
24 September 2017, had you been discharged from  
25 Victory as you claim you were?

1                          A B N-1

25

$$2 \quad A \quad x_{\odot S}$$

3 Q Was that after the specific  
4 incident at the Sunoco station with Mr.  
5 Orsaris?

6 A Yes

7 Q And you went down to the EEOC in  
8 September 2017?

9 A Yes sir

10 Q And nothing was done and you  
11 finally got around to it or they got around to  
12 it or you mutually got around to it and that  
13 was not until June of 2018 that you sat down  
14 with somebody and you filed Exhibit B; is that  
15 correct?

16 MS. LILBURN: Objection

17 Q Is that correct?

18 A. T. 'm sorry.

19 Q It wasn't until June that you  
20 finally were able to identify someone and file  
21 Exhibit B; is that correct?

22 A Yes, that's true.

23 Q Did you fill out any other forms  
24 in 2017 other than the intake questionnaire?

25 MS. LILBURN: Objection. Form

1 A. B. Nolte 25

2 Q Did you write anything else to  
3 the EEOC? Did you fill out any paper or put  
4 anything on paper other than Exhibit A in  
5 2017?

6 A Yes, I did

7 Q Do you have a copy of that?

8 A No T don't

11           A         This particular form here is two  
12 pages. I'm going to finish because I don't  
13 want you to look for something you're not  
14 going to find. What happened was when this  
15 was filed, one of the pages was missing. I  
16 went to the fifth floor over in 500. I went  
17 upstairs to what I believe is the room where  
18 they have all the records, the records room.  
19 I was going to refile the case, but because of  
20 the fact that all the information was in the  
21 June -- so we did not bother to go through all  
22 of that

23 Q Mr. Nelson, that is not what I'm  
24 asking.

25 A What are you asking?



A B N o l g o n C

2 and which you replied, that all EEOC  
3 information was requested of you, and you  
4 actually gave the defendant Exhibit A, but you  
5 did not give the second page that you are  
6 talking about?

7 A Okay. Can I answer that?

8 Q I'm waiting for an answer.

9           A         The partial help that I am  
10      getting from the New York LAG Organization, I  
11      asked the lawyer about this, you know, and  
12      then I went over to see about it. I wanted to  
13      refile the whole case. They thought, because  
14      everything was in --

15 MS. LILBURN: Wait. Did the  
16 lawyer tell you this?

THE WITNESS: What?

18                   MS. LILBURN: Are you about to  
19 speak to what a lawyer told you? Is  
20 this from counsel at NY LAG?

21 THE WITNESS: Yes

22 Q As your counsel noted, I asked  
23 you not to tell me what any lawyers that were  
24 helping you told you, but here is my question.  
25 I am not interested in what LAG said or did

1                           A.B. Nelson  
2   not say, even if I could find that out, which  
3   I can't. What I am interested in is you were  
4   served with a discovery demand and it was very  
5   specific. It asks for all EEOC papers. I can  
6   take the time to show you the demand, but you  
7   actually replied and in the document demand  
8   and in the interrogatories you produced  
9   Exhibit A. It is now in this deposition that  
10   you are now telling me that there was a second  
11   page filled out by you back in 2017 of which  
12   you did not produce in the discovery. I am  
13   simply asking you why not and how soon can I  
14   get it?

15                          MS. LILBURN: Objection.

16                          Compound.

17                          Q       Go ahead.

18                          MS. LILBURN: You can go ahead  
19                          and answer.

20                          A       What was the question again? I  
21   want to make sure I'm answering the right  
22   question. How soon can you have it, you said?

23                          Q       No. I told you that in a  
24   discovery demand, which was given to you  
25   months ago by my firm, you were asked to

<sup>1</sup> A. B. Noy, *J. Econ.*, 1985, 32, 101.

2 produce all documents relating to the EEOC  
3 filing. You produced those documents. You  
4 and I met together over those documents. You  
5 had plenty of time to produce all relevant  
6 documents. The only document that you  
7 produced was Exhibit A. We are now at this  
8 deposition and I am finding out for the very  
9 first time that there is a second page to  
10 Exhibit A, which you have and I do not have,  
11 and I want to know why not?

12           A         It's probably an oversight. I  
13 made a mistake. I am not in the lawyer  
14 business.

15 Q Don't you think that an EEOC  
16 filing on a big case of discrimination is  
17 important and it should not be an oversight?

18 MS. LILBURN: Objection

19 Q You can answer

20 A If I did not think it was  
21 important, we would not be sitting here today.

22 Q Why didn't you produce the second  
23 page?

24 A Because it was a mistake.

Q A mistake in what way?

1      A    B    C    N = 1      31

2           A         It was a mistake because you did  
3   not get it and I did not put it in, not that I  
4   did not put it in on purpose, but I didn't  
5   want to -- I am not here to pull the wool over  
6   your eyes. That's not who I am. I am here  
7   because of this and that was an honest to God  
8   mistake and that's that.

9                           MS. LILBURN: Do you have the  
10 second page of this?

13 MS. LILBURN: We will get you the  
14 second page.

15                           MR. HANS: I would like to  
16                           reserve my right subject to the  
17                           magistrate's approval to depose Mr.  
18                           Nelson on the second page since it was  
19                           not produced in discovery.

20 MS. LILBURN: Off the record.

23 Q Mr. Nelson, I am going to show  
24 you what was marked as Exhibit C. I believe  
25 that is the complaint that you filed in this

1 A. B. Nolte 32

2 action: am I correct?

3 A yes

4 Q Is there anything in that  
5 complaint, and please take a look at it, did  
6 you review that complaint before you came in  
7 here today?

8                   A         As in -- I don't understand your  
9 question.<sup>14</sup>

10 Q Did your eyes set on this  
11 document and did you read it and look at it in  
12 any way before you walked into this room  
13 today?

14 A Maybe a few days ago, but not  
15 this morning.

16 Q Whenever you did?

17 A Yes, of course I have

18 Q Is there anything in this  
19 complaint, as you sit here today with your  
20 sworn testimony under oath, that you want to  
21 amend or modify in that complaint?

22           A         No.    Everything in this complaint  
23   is up to snuff.

24 Q Are the statements set forth in  
25 that complaint true and accurate today?

1 A.B. Nelson

2 A True and accurate?

3 Q Today?

4 A Today?

5 Q Correct.

6 A Yes, sir, correct.

7 Q You named Alex Lettas as a  
8 defendant in this case; is that correct?

9 A Yes, sir.

10 Q If you turn to where they name  
11 the defendants in Section B, you have Diane  
12 Argyropoulos, Philip Argyropoulos and Chris  
13 Orsaris, but you did not name Alex Lettas in  
14 the complaint.

15 A Where is Section B?

16 Q It's on Pages 2 and 3. Let me  
17 help you out with this. On Page 2 it says  
18 defendant one, defendant two and then  
19 defendant three. You did not name Alex Lettas  
20 at all in any of those spaces. I am wondering  
21 was that also an oversight or a mistake?

22 A I guess that would be a mistake.

23 I believe there was only room to put three  
24 names here, so I put the three names, but of  
25 course Victory Mitsubishi and Mitsubishi North

1                           A.B. Nelson

2     America is also missing, Spartan Auto Group  
3     and the other entities are also missing, but  
4     there was only space for three and I did not  
5     fill these out, so that's the way it was  
6     filled out.

7                           Q       I ask you to go down to Page 3  
8     where it says causes of action federal claims.  
9     Do you see where you have the box checked off  
10   Title 7 of the Civil Rights Act. Do you see  
11   that little checkmark?

12                          A       Yes.

13                          Q       You checked off race, black; is  
14   that correct?

15                          A       African-American, black, yes.

16                          Q       Earlier in this deposition I  
17   asked you why you were suing and you said  
18   because of your race and age.

19                          A       Yes.

20                          Q       The question is, why didn't you  
21   put age down when you put black?

22                          MS. LILBURN: Objection.

23                          A       Because the document did not, for  
24   some reason, the document did not have age.  
25   Hold on. If you continue on to the next page,

35

1 A.B. Nelson

2 it does say age and it is checked off.

3 Q You're referring to the New York  
4 State Human Rights Law?

5 A Okay. You're talking about where  
6 it says Title 7 here; is that correct?

7 Q Yes.

8 A It continues on to the next page.

9 Q Where it says age discrimination?

' A It says age discrimination and  
it's checked off.

Q What is the basis of age  
discrimination for you?

A What is the basis for age  
discrimination?

Q What is the basis of your claim  
of age discrimination?

A Age old remarks and things of  
that nature.

Q Why don't you tell me what  
remarks you're talking about and who said it?

A Being called Bill Cosby, Uncle  
Ben, and things of that nature.

Q Let me interrupt you for a  
second. Those statements that you are talking

36

1 A.B. Nelson

2 about support your race claim correctly.

3                   A         They also support the age claim,  
4    too.

5 Q How do they support the age  
6 claim?

7           A         Because these are all old people  
8 and it's also race, but why are you  
9 identifying me with an old rapist who happens  
10 to be a multi-millionaire, why would you, you  
11 know, then call me Uncle Ben, call me Bill  
12 Cosby for a year or two and, you know, making  
13 other age-related remarks and stuff. Why?

14 Q What other remarks other than  
15 Uncle Ben and the reference to Bill Cosby  
16 support an age discrimination claim?

17           A        We had a washed-up stripper come  
18       in our store. We sell cars to strippers. We  
19       sell cars to anybody. We had this woman come  
20       in the store and he made the remark to me  
21       would an old guy like you do her without a  
22       raincoat on.

23 Q Who said that to you?

24 A Chris Orsari

25 Q Other than that comment is +

37

1 A.B. Nelson

2 any other comment referring to age?

3           A         There's been other comments  
4 relating to me and somebody else who's old,  
5 who's also my age there, you know, like grumpy  
6 old men, and this and that and the other.

7 Q Let us take each one. Before we  
8 go through each one, I cannot help notice that  
9 none of these comments were in the  
10 interrogatories, in your complaint, in the  
11 EEOC filing. Is there any reason why we're  
12 hearing about these comments for the very  
13 first time today?

14           A         The reason why is because you're  
15 asking for it for the very first time today.  
16 You did not, to my knowledge, ask anything in  
17 the interrogatories about what was said or  
18 anything. I don't remember -- I don't recall  
19 that in your interrogatories.

20 Q You did not set any of these  
21 comments out in your complaint or the EEOC  
22 filing?

23           A         In my complaint -- my complaint  
24       is right here. It says -- it doesn't say  
25       anything about where I'm supposed to put that.

1                           A.B. Nelson

2   It just tells you to put whatever facts that  
3   are here and there they are. Obviously I  
4   figured you would expand on it later like you  
5   are right now.

6                           Q         This is your complaint, sir.

7                           A         I understand.

8                           Q         Why don't we go through these  
9   horrible statements of age discrimination or  
10   the statements you heard about age. You said  
11   these were comments. One you said that Mr.  
12   Orsaris said to you, so tell me the others?

13                          MS. LILBURN: Objection.

14                          A         Repeatedly -- you're saying the  
15   others. Okay. There are numerous statements  
16   or comments because it's two or three years  
17   ago and I may not remember all of them. I  
18   remember the ones the most that stuck out in  
19   my mind. I am not going to remember word for  
20   word. We're talking --

21                          Q         Mr. Nelson, you have sued my  
22   client. You are claiming race discrimination  
23   and age discrimination. You are now  
24   supporting the age discrimination by your  
25   testimony and there's nothing in your

1

A.B. Nelson

2 complaint and nothing in your EEOC filing of  
3 incidents of age discrimination. As we sit  
4 here today, and this is your case. My client  
5 did not bring a case. My client is defending  
6 the case. It is your obligation, if you want  
7 to pursue this, to tell us or to put forth the  
8 basis of your age discrimination, and if you  
9 are saying it's based on comments to you, I'm  
10 specifically asking you to identify the person  
11 and the comment and when it was made. I want  
12 you to support that claim. If you don't  
13 remember, that's fine, too, but if you do  
14 remember, I would like you to swear under oath  
15 today what they were.

16

MS. LILBURN: Objection. So

17

aboard

18

18                   A         The gentleman sitting right here  
19         next to you, Chris Orsaris, for a long period  
20         of time he constantly referred to me as Bill  
21         Cosby. Okay. I was referred to as Uncle Ben,  
22         which maybe you need to be familiarized. You  
23         would not tell a black woman Aunt Jemima. I  
24         think they changed the box cover, so anyway,  
25         that's the sort of stuff. It's very racial

1                   A.B. Nelson

2 when you call somebody that.

3                   Q         I'm not talking about racial.

4                   A         Age? It's also age.

5                   Q         I'm talking about age.

6                   A         It's also age. Uncle Ben and  
7 Bill Cosby are both -- the Uncle Ben logo for  
8 the rice. You heard of Uncle Ben's Rice, sir?

9                   Q         You don't get to ask me  
10 questions.

11                  A         I am just saying it. I want to  
12 make sure you're familiar with the term Uncle  
13 Ben, so that's why I am asking you.

14                  Q         You are just here to testify.  
15 You don't get to ask me questions.

16                  A         Uncle Ben is the guy on the rice  
17 box and to call somebody that is not only age,  
18 but it's also a racial insult. It's both.

19                  Q         That is fine. That's your  
20 testimony. This is your case. Would it be  
21 correct to say that your age discrimination  
22 complaint is based on those comments that  
23 support the race discrimination, as well?

24                  A         Yes.

25                  Q         Do you have any others, other

1                   A.B. Nelson

2   than those comments that are in your  
3   complaint, do you have any other evidence of  
4   age discrimination?

5                   A        Things were said like grumpy old  
6   men referring to me and some other person, an  
7   older salesperson there.

8                   Q        Who said that? Who said grumpy  
9   old men?

10                  A        If I remember correctly, it was  
11   one of the managers. It was this tall, skinny  
12   guy. I can't remember his name. I believe  
13   also Stavros Orsaris made mention to that  
14   also.

15                  Q        When did Stavros Orsaris make  
16  mention of it?

17                  A        Probably sometime in 2017.

18                  Q        You're using the word probably.  
19   Do you recall a specific time and place where  
20   Mr. Orsaris, Stavros Orsaris, said grumpy old  
21  men?

22                  A        Time and place you said?

23                  Q        Time and place.

24                  A        The place is in the store that is  
25  now Mitsubishi because there are two

1                   A.B. Nelson

2 properties. It was in the store.

3                   Q         Is that one comment one time or  
4 did he say this numerous times?

5                   A         It's been mentioned more than  
6 once.

7                   Q         Other than Stavros Orsaris's  
8 comment, did he refer to you as a grumpy old  
9 man or just generally? Did he call you a  
10 grumpy old man?

11                  A         Me and somebody else were called  
12 that.

13                  Q         Anybody else who made age  
14 comments other than that comment?

15                  A         Did anybody else --

16                  Q         Did anybody else besides Mr.  
17 Orsaris?

18                  A         There was another manager. I do  
19 not remember his name. I know that he came  
20 there with another gentleman named Freddy at  
21 the time, and he drove a silver Audi. He's a  
22 tall fellow. I cannot recall his name.

23                  Q         So you do not remember the name,  
24 but the one person that you can identify said  
25 grumpy old men.

1                   A.B. Nelson

2       A       Yes.

3       Q       Any other proof that you have of  
4   age discrimination by my client?

5       A       Any other proof?

6       Q       Yes.

7       A       No.

8       Q       When did you first become  
9   employed at Victory?

10      A       I think it was Thanksgiving Day  
11   or the day before -- in November 2015.

12      Q       What was the position?

13      A       Salesman, product specialist,  
14   salesman.

15      Q       Who hired you?

16      A       I was hired -- the manager there  
17   then was Gene Flourny (phonetic) or whatever.

18      Q       Were any of my clients there when  
19   you were hired?

20      A       Yes.

21      Q       What were you told when you were  
22   hired as far as your compensation? What would  
23   you be paid?

24      A       It was supposed to be 20 percent  
25   front end gross minus pack. There was no --

1                   A.B. Nelson

2     there was nothing on the back. Some places  
3     you get paid on the back, but it was just 20  
4     percent on the front minus pack and that was  
5     what the pay structure was supposed to be.

6                   Q       And that is your complete  
7     understanding of that, correct?

8                   A       Yes.

9                   Q       Who told that to you? Who's the  
10    person who said this is what you're going to  
11    get paid?

12                  A       I would imagine that it might  
13    have been Gene.

14                  Q       Did there come a time, and I  
15    think it is in your complaint, that you did  
16    not receive the compensation that you said you  
17    should have received?

18                  A       Yes. That's in the complaint.

19                  Q       We will get into that in a little  
20    while, but I want to know did you ever  
21    complain about not receiving the appropriate  
22    compensation?

23                  A       Yes.

24                  Q       To whom did you complain?

25                  A       The first time that I complained

1                   A.B. Nelson

2   about it was to Gene and the finance manager  
3   named Igor.

4                   Q         How many times did you complain  
5   to them?

6                   A         A few times, you know. After I  
7   saw the money, you know, a few times.

8                   Q         Did you send an email or any  
9   writing about not receiving your appropriate  
10 compensation?

11                  A         We were not emailing each other,  
12 no.

13                  Q         Was there any writing that you  
14 did?

15                  A         Any writing?

16                  Q         Any written memos, notes,  
17 letters?

18                  A         There was a conversation at the  
19 podium inside the store and that was that.

20                  Q         Do you have any proof that the  
21 problems that you were having with  
22 compensation were based on racial or age  
23 discrimination or race or age reasons?

24                           MS. LILBURN: Objection.

25                  A         Can you repeat that.

1                           A.B. Nelson

2                           Q         Do you have any evidence that the  
3     compensation -- we will get into the  
4     compensation in a little while, but the  
5     compensation problems that you were having, do  
6     you have any evidence that those problems were  
7     based on your race or your age?

8                           A         No. That's not, no.

9                           Q         You don't?

10                          A         No.

11                          Q         What were your hours at Victory,  
12 generally speaking?

13                          A         The store opens up at 9:00 and  
14 the way they schedule it, some nights you work  
15 till 9 and some nights till 6, and on Sunday  
16 it's basically a half a day.

17                          Q         Who was your supervisor?

18                          A         Who was my supervisor?

19                          Q         Name all your supervisors that  
20 you can recall?

21                          MS. LILBURN: Objection.

22                          A         Can I make a comment to that  
23 statement?

24                          Q         No. You're supposed to just  
25 answer the question.

1                   A.B. Nelson

2                   A         There were so many of them that I  
3                   cannot remember all of them.

4                   Q         Tell us what you do remember.

5                   A         I had Gene Flourny. I had Igor.  
6                   He was a finance manager, but he was still a  
7                   manager. You had two people named Freddy.  
8                   One of them -- I can't. I don't remember his  
9                   last name. There were two Freddys there, so  
10                  you had Freddy. You had Shane Bacus.

11                  Q         These are supervisors of you,  
12                  correct?

13                  A         Floor managers, whatever you want  
14                  to call them, supervisors.

15                  Q         After Shane Bacus, who else?

16                  A         Shane Bacus, Stavros Orsaris,  
17                  Peter Orsaris, Ian -- not Ian. He's finance.  
18                  Ian is finance.

19                  MS. LILBURN: Mr. Nelson named  
20                  ten individuals. If you're looking for  
21                  a list of everyone who was in a  
22                  supervisory role during the period that  
23                  he was employed, I think that your  
24                  clients can provide that to you.

25                  MR. HANS: I have the right to

1                   A.B. Nelson

2                   ask him who he believes is his  
3                   supervisor.

4                   MS. LILBURN: I think he answered  
5                   what he can recall.

6                   Q           Is there anybody else that you  
7                   can recall?

8                   A           In three years I saw thirty-eight  
9                   people. I had thirty different managers in  
10                  less than three years. I believe I was there  
11                  for two years and ten months. I don't know  
12                  the exact -- there is an abundance of people  
13                  going and coming, managers.

14                  Q           Did these managers work on the  
15                  floor at Victory?

16                  A           Yes.

17                  Q           You believe there was  
18                  approximately over thirty, you said the number  
19                  thirty-eight managers over the course of your  
20                  employment at Victory?

21                  A           Yes.

22                  Q           Were you directly reporting to  
23                  any one of those thirty-eight or was there  
24                  anyone in particular you reported to?

25                  A           You have two sides to the store,

1                           A.B. Nelson  
2       so sometimes report to other managers if  
3       we're -- everybody is designated -- the  
4       building is two properties, so we have  
5       managers on one side and managers on the other  
6       side. We do work with all of the managers,  
7       whether it's both sides or not.

8                           Q       I'm asking you if you can  
9       identify, as you sit here today, because this  
10      is your case, who are the supervisors that you  
11      were directly reporting to out of all the  
12      thirty-eight supervisors? Who would you go to  
13      to get approval for something or anything  
14      else? Was there anyone in particular?

15                          MS. LILBURN: Objection. So we  
16      are referring to supervisors and  
17      managers? Are you using them  
18      interchangeably? What do you mean by  
19      managers?

20                          Q       Is a manager a supervisor also,  
21      Mr. Nelson?

22                          A       I don't know. I never really  
23      heard that particular jargon in the automobile  
24      business, supervisor.

25                          Q       The person that you reported to,

1                   A.B. Nelson  
2         the person that you needed approval for for  
3         anything in Victory, the person that told you  
4         what to do, those sort of people, how many  
5         people that directly told you what to do or  
6         you had to ask for approval on any particular  
7         issue, who were those people?

8                   A         All thirty-eight of them.

9                   Q         All thirty-eight?

10                  A         Yes.

11                  Q         Was Alex Lettas one of those  
12         supervisors?

13                  A         At one time, but Alex Lettas was  
14         one -- he has worn many hats, so there were  
15         times when he was a manager there and then  
16         there were times when he was a buyer, a  
17         purchaser of vehicles for the store, so Alex  
18         is one that has worn about fifteen or twenty  
19         hats in that organization.

20                  Q         Let's break that down. You said  
21         he was at one time a manager or supervisor.

22                  A         Right.

23                  Q         Can you identify the time that he  
24         was?

25                  A         I don't remember the exact time.

1                   A.B. Nelson

2                   Q        You don't remember?

3                   A        No.

4                   Q        You have no idea?

5                   A        Right now I don't, no.

6                   Q        You said he wore many different  
7                  hats?

8                   A        Yes, that's true.

9                   Q        Can you list the different  
10                  positions he held at Victory that you can  
11                  recall?

12                  A        He purchased vehicles. He was a  
13                  vehicle purchaser. He was over -- sometimes  
14                  he would work on the floor. As a floor  
15                  manager, he's been on the floor. He also was  
16                  over the business development segment of that  
17                  business also, BDC, which is a separate entity  
18                  that brings business into the store, you know,  
19                  different things.

20                  Q        Up until the first EEOC issue  
21                  that you filed, Exhibit A, which was in  
22                  September of 2017, so from November of 2015  
23                  when you started at Victory, did you have any  
24                  issues or any complaints of discrimination on  
25                  the job, up to the time that you filed that?

1                           A.B. Nelson

2                           MS. LILBURN: Objection.

3                           Q         You can answer.

4                           A         When I first started there, there  
5                           was no racial discrimination and no jokes and  
6                           stuff. That did not exist because the parties  
7                           in this caption were not there yet.

8                           Q         Are you saying that Diane  
9                           Argyropoulos, Philip Argyropoulos, Chris  
10                          Orsaris and Alex Lettas were not there when  
11                          you started in November of 2015?

12                          MS. LILBURN: Objection.

13                          A         Only Diane Argyropoulos and  
14                          Philip Argyropoulos were there.

15                          Q         When you say jokes and stuff,  
16                          what are you talking about when you say jokes  
17                          and stuff? You say other than jokes and  
18                          stuff, there was no discrimination. What  
19                          jokes and stuff are you talking about?

20                          A         Racial type, denigrating  
21                          conversations about people.

22                          Q         Who had those conversations? The  
23                          only time period I'm talking about right now  
24                          is November 2015 to September of 2017, that is  
25                          the only time period. You say there were

1                   A.B. Nelson

2   racial jokes and stuff made, correct?

3                   MS. LILBURN: Objection.

4                   A       Yes.

5                   Q       Can you tell me who made those  
6   jokes and stuff?

7                   A       Alex Lettas most of the time  
8   would make these types of jokes or statements.  
9   I didn't mean to say stuff. I meant  
10   statements.

11                  Q       I think before you said only the  
12   two Argyropoulos people were there and not  
13   Orsaris and Lettas. Now you're saying it was  
14   Lettas that was making those comments?

15                  MS. LILBURN: Objection.

16                  Q       Please clarify.

17                  A       Let me clarify that for you.  
18   Okay. When I started there, Mr. Orsaris and  
19   Mr. Lettas did not show up until about five  
20   months later.

21                  Q       Let me get back to the jokes and  
22   stuff or jokes and statements. The jokes  
23   you're talking about, why do you call it a  
24   joke, by the way?

25                  A       Some of them -- I'm not saying

1                   A.B. Nelson

2   it's a joke, because it's not right to say  
3   those kinds of things about people.

4                   Q      You just testified it was a joke.

5                   MS. LILBURN: Objection.

6                   A      When you take your phone, for  
7   instance, and you show people climbing the  
8   wall, now we're talking about the Texas wall,  
9   and that's supposed to be very entertaining  
10   and very funny, look at this.

11                  Q      Who did that?

12                  A      Alex Lettas numerous amounts of  
13   times and also when he would see a client come  
14   in the store, okay, and he would look at them,  
15   and I would notice that certain clients and  
16   most of the business there, I would say about  
17   75 percent of it is ethnic customers, you  
18   know, customers that are non-white customers,  
19   I'll just be frank. He would size them up or  
20   judge them and say that they are in the  
21   niggerative, meaning he took the word negative  
22   and turned it into niggerative.

23                  Q      We are going to get to that  
24   comment in your EEOC filing complaint. We  
25   will get to those comments. What I'm saying

1                   A.B. Nelson  
2       is, up until the time you filed the complaint,  
3       other than what was in the complaint, were  
4       there any discriminatory issues other than  
5       what is in the complaint before that from  
6       November 2015, and what I hear from you is  
7       there were jokes and statements, but that was  
8       solely by Mr. Lettas, correct?

9                   MS. LILBURN: Objection.

10          Q       Mr. Lettas is the only one that  
11       you are identifying, correct?

12          A       And Chris Orsaris.

13          Q       And Chris Orsaris are making  
14       statements, is that it? Tell me what they are  
15       doing.

16                   MS. LILBURN: Objection.

17          A       Uncle Ben remarks.

18          Q       Other than what's in your  
19       complaint?

20          A       You're asking me -- I don't  
21       understand. You're asking me one thing and  
22       I'm telling you what they're doing.

23          Q       I am saying other than what is in  
24       your complaint. From November when you  
25       started, and we will take one year, so

1                           A.B. Nelson

2   November 2015 to November 2016, the one year.

3   Were there any statements or jokes by Mr.

4   Orsaris or Mr. Lettas?

5                           A         Yes.

6                           Q         Did you report any of those

7   statements to anybody?

8                           A         Did I report, no.

9                           Q         Did you say anything to them when  
10   they were saying these comments?

11                          MS. LILBURN: Objection.

12                          A         I asked Mr. Orsaris to stop  
13   calling me those names, those things.

14                          Q         Are you saying Mr. Orsaris was  
15   saying things directly to you in the year from  
16   November 2015 to November 2016?

17                          A         He wasn't there in '15.

18                          Q         I am asking you. You started  
19   November 2015, so from November 2015, November  
20   to November, were there any discriminatory  
21   remarks; yes or no?

22                          A         Yes.

23                          Q         By who?

24                          A         Chris Orsaris and Alex Lettas.

25                          Q         Other than those two individuals,

1                   A.B. Nelson

2    were there any other remarks by anyone?

3    A       Any other parties --

4    Q       I'm asking for anybody.

5    A       You mean anybody, even a  
6    salesperson or anybody?

7    Q       Anybody working for Victory?

8    A       Anybody working for Victory?

9    Q       Yes.

10   A       No.

11   Q       Were the comments by Mr. Orsaris  
12   and Mr. Lettas, were they jokes or were they  
13   mean-spirited? How did you take them?

14   A       Mean-spirited, racially  
15   discriminatory.

16               MS. LILBURN: Objection. Go  
17               ahead. Continue.

18   A       Mean-spirited, racially  
19   discriminating.

20   Q       Were they jokes or was it a mean  
21   statement?

22               MS. LILBURN: Objection.

23   Q       How did you interpret these  
24   comments? Were they made in jest, in jokes,  
25   or were they harse statements? How would you

1                           A.B. Nelson

2        describe them?

3                           A        I would describe them as  
4        disrespectful.

5                           Q        Disrespectful?

6                           A        Yes.

7                           Q        Do you know when Mr. Orsaris  
8        started working at Victory?

9                           A        Mr. Orsaris started at Victory  
10      sometime in the early part of 2016.

11         Q       Up until November of 2016, you  
12      heard some comments about race from the two  
13      individuals you had identified. How often  
14      were those comments made?

15         A       Numerous amounts of time.

16         Q       How often in a week?

17         A       Between the two of them, it could  
18      be four or five times a week.

19         Q       Were they solely directed to you  
20      or were they said in general?

21         A       Well, if you're calling me Bill  
22      Cosby, then you're talking to me. Obviously  
23      it's directed at me.

24         Q       I'm not talking about Bill Cosby  
25      and Uncle Ben. Let's put that aside. I'm

1                   A.B. Nelson  
2     asking about other comments not in your  
3     complaint. You're saying there were jokes and  
4     statements. I asked you who and you  
5     identified only two individuals, Mr. Orsaris  
6     and Mr. Lettas.

7                   A       Yes.

8                   Q       You now said it happened numerous  
9     times, correct?

10                  A       Yes.

11                  Q       And they were directed only to  
12    you; is that correct?

13                  MS. LILBURN: Objection.

14                  A       I don't know if he had -- no.  
15    They weren't -- no, they weren't now that I  
16    think about it.

17                  Q       Who were they directed to?

18                  A       Are you talking about the  
19    comments?

20                  Q       Yes. Any racial comment.

21                  A       Comments and racial jokes or  
22    anything, is that what you're saying?

23                  Q       Yes.

24                  A       Those statements were made to  
25    other people also that worked there.

1                           A.B. Nelson

2                           Q         Would you say it was an  
3                           atmosphere of comments like that that they  
4                           would make?

5                           A         It was an atmosphere created by  
6                           Mr. Lettas, mostly, and also Mr. Orsaris.

7                           Q         Are you saying the only racial  
8                           comments directed at you are the ones you put  
9                           in your complaint?

10                          MS. LILBURN: Objection.

11                          Q         Yes or no? The Uncle Ben and  
12                          Bill Cosby comments.

13                          A         I'm not sure. I never heard him  
14                          call anybody else that. He referred to me as  
15                          that numerous times, only me.

16                          MR. HANS: Move to strike.

17                          Q         That is not what I am asking you.  
18                          Please listen to my question. You say that  
19                          they used to use these comments at Victory. I  
20                          understand that. You said in general and not  
21                          to you and I understand that. Now I am  
22                          identifying you. I am saying that the only  
23                          comments, the racial comments that they would  
24                          direct at you would be the Uncle Ben and Bill  
25                          Cosby comments; is that correct, the ones you

1                   A.B. Nelson

2 have in your complaint?

3                   MS. LILBURN: Objection.

4                   A         The ones in my complaint -- are  
5 you asking me if there are others than what is  
6 in the complaint?

7                   Q         Absolutely.

8                   A         Okay.

9                   Q         Mr. Nelson, you seem to be  
10 struggling with this question.

11                  MS. LILBURN: Objection.

12                  Q         Can you tell me why you're  
13 struggling with this question?

14                  A         Because I'm trying to think three  
15 years back.

16                  Q         I'm also saying to you this is  
17 your complaint. We did not fill this out.

18                  A         Of course.

19                  Q         Mr. Lettas, Mr. Orsaris, none of  
20 them filled this complaint out. It was you  
21 that filled this out. It was your opportunity  
22 to put down on paper in the legal complaint  
23 what somebody said that was discriminatory to  
24 you and it does not seem like you held back.  
25 You put the Uncle Ben and the Bill Cosby in

1                           A.B. Nelson

2 there.

3                           MS. LILBURN: Objection.

4                           Q         If there are others, tell me what  
5 they were. If there's not and it's limited to  
6 that, tell me that. It doesn't matter. I  
7 just want to know what you are saying.

8                           A         Other than that, no.

9                           Q         You have those couple of comments  
10 and that's the basis of the racial  
11 discriminatory remarks, according to you  
12 today, would you agree with that?

13                          MS. LILBURN: Objection.

14                          A         To my recollection right now --

15                          Q         Take your time before you answer.  
16 Please be certain. If there's something else,  
17 tell it to me. Testify to it now.

18                          A         No, just these right here.

19                          Q         I just want to talk about Philip  
20 Argyropoulos. By the way, is he there at  
21 Victory all the time?

22                          A         He's there sometimes.

23                          Q         How often is he there?

24                          A         I'm not sure. I know he's there  
25 every Saturday, but I know that he has another

1                   A.B. Nelson

2 business that he does when he's not there.

3                   Q         So you are saying he only appears  
4 there generally on Saturday?

5                   A         Generally on Saturday, yes, or  
6 sometimes during the week, but very rarely  
7 he's there.

8                   Q         Is he there every Saturday?

9                   A         Yes.

10                  Q         How many hours on Saturday?

11                  A         I don't know. He works in  
12 another building.

13                  Q         Do you know for sure that he's  
14 there every Saturday?

15                  A         Sure.

16                  Q         Did you see him?

17                  A         Yes.

18                  Q         Can you testify as to how many  
19 hours he was there?

20                  A         I cannot testify to that because  
21 I guess if you own a business, you can come  
22 and go as you please, so I don't know.

23                  Q         Did you have any interaction with  
24 him?

25                  A         I spoke to him maybe three times

1                           A.B. Nelson

2     in two and three-quarters of a year.

3                           Q         Was Mr. Argyropoulos ever  
4     present for any of the allegations that you  
5     have made in the complaint in this action?

6                           MS. LILBURN: Objection.

7                           A         Was he present?

8                           Q         Was he present to hear any of the  
9     allegations that you made in the complaint?

10                          A         He's never around.

11                          Q         I understand that. Would you  
12    agree that he was not around when these  
13    statements were made?

14                          A         Yes, that's true.

15                          Q         The next question is why are you  
16    naming him in this lawsuit?

17                          A         I named him in the lawsuit  
18    because he is the head principal of this whole  
19    organization, so this is his organization.  
20    He's named in the lawsuit.

21                          Q         Do you believe that your basis  
22    for naming Philip Argyropoulos is that he is  
23    the head of Victory Auto Group and thus he  
24    should be named?

25                          A         Named and responsible for people

1                   A.B. Nelson

2    that work underneath him, the type of people  
3    that work underneath him, and what goes on  
4    underneath him.

5                   Q         I want to ask you about Diane  
6    Argyropoulos. Why did you name her in this  
7    lawsuit?

8                   A         Because she is a -- she's also an  
9    owner of this organization, 30 percent.

10                  Q         Would your testimony be the same  
11   about her as it was about Mr. Argyropoulos?

12                  MS. LILBURN: Objection.

13                  A         No.

14                  Q         Was she present for any of the  
15  allegations in the complaint?

16                  MS. LILBURN: Objection.

17                  A         She was present, but it did not  
18  happen in front of her.

19                  Q         Did you go to her and ask her or  
20  tell her about it?

21                  MS. LILBURN: Objection. Which?

22                  Q         I'm going to refer to her as  
23  Diane. Okay?

24                  A         Yes.

25                  Q         We know who we are talking about,

1 A.B. Nelson

2 right?

3 A Right.

4 Q Did you go to Diane at any time

5 you heard any racial or age-related comment?

6 Did you go to her and say this was just said

7 and I want you to know?

8 A No.

9 Q Why not?

10 A Why not -- the reason for why not  
11 is because we were instructed by Mr. Orsaris  
12 to never go to Diane about anything having to  
13 do with -- not to go to Diane other than hello  
14 and good morning and greetings and stuff and  
15 not to go to Diane.

16 Q On anything?

17 A Those were the instructions.

18 Q That was from Mr. Orsaris?

19 A That was from Chris Orsaris, yes,  
20 sir.

21 Q What was his job at Victory? Do  
22 you recall what his position was?

23 A I'm not sure if he was a  
24 principal or just the general manager for the  
25 store. I'm not sure exactly what it is, but

1                           A.B. Nelson

2   he's the one underneath Diane.

3                           Q         Is he there all the time?

4                           MS. LILBURN: Objection.

5                           A         Practically.

6                           Q         Do you know whether or not he was  
7   an auto inventory buyer?

8                           A         He did buy cars. I witnessed him  
9   buy cars online from Manheim Auction.

10                          Q         Did he have to go to the  
11   auctions?

12                          A         He has gone to auctions, yes.

13                          Q         Is it your testimony that he was  
14   present at Victory from the time you started  
15   in 2016 to September of 2017, he was present  
16   at Victory during that period of time?

17                          MS. LILBURN: Objection.

18                          Q         Tell me if he was present at  
19   Victory during that time?

20                          A         Something like April or March,  
21   somewhere around there, okay, the beginning of  
22   2016, you know, not the beginning beginning,  
23   but a few months into the year.

24                          Q         Until September --

25                          A         Right up until now.

1                         A.B. Nelson

2                 Q       He was there how many hours a  
3  week, just take an estimate if you can?

4                 A       A lot of hours, maybe fifty,  
5  forty-five, fifty, a hard worker, many hours  
6  he put in.

7                         MS. LILBURN: We've been going  
8  for an hour and a half. Can we take a  
9  break?

10                        MR. HANS: I just want to get in  
11  my full seven hours.

12                        MS. LILBURN: It's seven hours on  
13  the record.

14                        MR. HANS: We started at 9:45.

15                        MS. LILBURN: We can keep track  
16  of the time. I'm not trying to cut you  
17  short.

18                        MR. HANS: No problem.

19                        (Whereupon, at 11:10 a.m., a  
20  recess was taken.)

21                        (Whereupon, at 11:20 a.m., the  
22  examination resumed.)

23  CONTINUED EXAMINATION BY MR. HANS:

24                 Q       Mr. Nelson, do you recall stating  
25  I believe in your interrogatories, and I can

1                           A.B. Nelson

2     get them if you don't recall, that you said  
3     your performance was exceptional; do you  
4     remember that?

5                           A        Yes.

6                           Q        That was a word that you used, I  
7     believe, exceptional, correct?

8                           A        Was it in my interrogatory?

9                           Q        Let me show this to you. I will  
10    find it as we go.

11                          Would you describe your  
12    performance as exceptional, sir?

13                          A        Yes, sir.

14                          Q        Is that your opinion or did you  
15    receive something written from somebody at  
16    Victory describing your performance there as  
17    exceptional?

18                          A        They praised my performance as to  
19    when customers have written comments as to how  
20    well they were taken care of and how happy  
21    they were making this purchase.

22                          Q        You say they, who is they?

23                          A        Customers. Do you mean as far as  
24    who wrote it -- Chris Orsaris at times when  
25    people have, you know, made responses to what

1                           A.B. Nelson

2     their likings were of their purchase, and so  
3     he has commented on it in a positive way.

4                           Q         How often were those comments  
5     made?

6                           A         Most people who buy cars from  
7     me -- every so often I would say. We would  
8     ask the customer to write a review.

9                           Q         Do you have any proof other than  
10    your testimony today that your performance was  
11    exceptional?

12                          A         You can look on Yelp. I don't  
13    have it with me because I'm not supposed to  
14    have anything except what you are giving me.  
15    Isn't that correct?

16                          Q         I don't answer questions.

17                          A         I don't know. You just asked me  
18    a question if I had stuff and I don't have it  
19    with me. I only have what you're giving me is  
20    what I have.

21                          Q         Forgetting about what I gave you  
22    or what I could give you, but do you have any  
23    documentation, any written documentation, that  
24    describes your performance at Victory as  
25    exceptional?

1                           A.B. Nelson

2                           A         Yes.

3                           Q         Where is that?

4                           A         It should be in the documents  
5                           that I sent you.

6                           Q         Can you identify the documents  
7                           that you sent me that describe your  
8                           performance as exceptional?

9                           A         It would be in the disclosures.

10                          Q         There were various document  
11                          demands and interrogatories. I'm asking you  
12                          to identify a specific document, whether you  
13                          gave it to me or not?

14                          A         Yelp.

15                          MR. HANS: For the record, I do  
16                          not have any document from Yelp.

17                          MS. LILBURN: In the production  
18                          there was a screenshot printout from  
19                          Yelp.

20                          MR. HANS: I don't have it. Are  
21                          you talking about a document that was  
22                          produced? I don't have a screenshot of  
23                          that.

24                          Q         Mr. Nelson, can you identify a  
25                          screenshot from Yelp that describes your

1                   A.B. Nelson

2 performance as exceptional?

3                   A         A screenshot?

4                   Q         Your attorney just stated that  
5 there was a Yelp review that was produced in  
6 discovery. I do not have that document. I am  
7 at a loss of which document it is. Can you  
8 describe that? Do you have a copy of it?

9                   A         I do not have a copy of anything.

10                  MR. HANS: Counsel, do you have a  
11 copy of it?

12                  MS. ORTIZ: It is a three-page  
13 document and it has Yelp in the upper  
14 left-hand corner.

15                  MR. HANS: Off the record.

16                  (A discussion was held off the  
17 record.)

18                  Q         Mr. Nelson, you said that you  
19 were told by Chris Orsaris not to go to Diane  
20 Argyropoulos; is that correct?

21                  A         That was told to everybody, not  
22 only me, that any problems we had, we were not  
23 to go to Diane with it.

24                  Q         And it was Chris Orsaris that  
25 said that, right?

1                   A.B. Nelson

2       A       Yes, sir.

3       Q       What happened before Chris

4       Orsaris worked there? Why didn't you go to  
5       Diane at that time if you had an issue before  
6       February of 2016?

7       A       I did go to somebody about an  
8       issue, but it was not the racial issue. The  
9       issues that you're talking about started after  
10      Chris and Alex came on board.

11      Q       Did all the employees have access  
12      to Diane?

13      A       Did all the employees -- no. All  
14      of the employees did not have access to Diane,  
15      no.

16      Q       Other employees, if they were to  
17      come in here and testify that they had access  
18      to Diane and they spoke to her and she spoke  
19      to them and everything was fine, would they be  
20      lying?

21                   MS. LILBURN: Objection.

22      Q       Yes or no? That is a yes or no,  
23      sir. If other employees during that period of  
24      time came in here and said they always had  
25      access to Diane and Diane always had

1                           A.B. Nelson

2     communications with them, would it be your  
3     testimony that they are not telling the truth?

4                           MS. LILBURN: Objection. Can you  
5                           clarify what you mean by access?

6                           Q         Access meaning access to her  
7     about anything going on, whether  
8     discriminatory comments or work issues,  
9     anything going on. Would you say that they  
10    would not be telling the truth and that you  
11    could go to Diane?

12                          A         I don't know what they spoke to  
13    her about, but we all say hello, but as far as  
14    that goes, the cut-off was Chris for  
15    everything, for everybody.

16                          Q         If these other people that worked  
17    there came in and said they did have access to  
18    Diane after February of 2016 about any issues  
19    that they would go and talk to her, if they  
20    testified to that, they would not be telling  
21    the truth; is that your testimony?

22                          MS. LILBURN: Objection.

23                          A         Is that my testimony?

24                          Q         Is that correct; yes or no?

25                          A         From where I am sitting, that is

1                         A.B. Nelson

2         correct, as far as the issues go and not just  
3         saying hi, how are you doing, but as far as  
4         issues go.

5         Q         Any issues you were not supposed  
6         to go to Diane and all employees were  
7         instructed that way, correct?

8         A         We were instructed if we had any  
9         problems with anything that we were to go to  
10         Chris and I guess that meant his son or his  
11         two sons or whoever. We were instructed not  
12         to go to Diane with anything, period.

13         Q         What was your relationship with  
14         Phil?

15         A         I met Phil -- I have seen Phil  
16         come and go, you know, greetings like how are  
17         you doing and eyeball contact with him. Maybe  
18         the whole time I was there I may have had  
19         three conversations with him, maybe.

20         Q         So you weren't friends with him?

21                     MS. LILBURN: Objection.

22         A         Friends?

23         Q         Were you friends with him?

24         A         I'm not friends with anybody  
25         except maybe -- I'm not friends with him, no.

1 A.B. Nelson

2 I'm not friends with him. What do you mean by  
3 friends? Can you explain that?

4 Q Would you talk about, for  
5 example, race cars with him?

6 A One conversation and that was it.

7 Is there anything you need to know about that  
8 conversation. I'm just asking because I don't  
9 want to say too much.

10 Q You don't get to ask the  
11 questions. I ask the questions.

12 MS. LILBURN: He's asking you if  
13 he answered your question.

14 A Is that the appropriate answer?

15 Q I don't decide what is  
16 appropriate. You testified --

17 A Was it adequate, sir?

18 Q I don't answer questions, sir.

19 MS. LILBURN: He can ask you if  
20 he answered your question.

21 MR. HANS: No. If I don't think  
22 he answered, then I will follow up with  
23 a question. That's how it works.

24 Q Let us go back to Mr. Orsaris.  
25 In your EEOC complaint, Exhibit B that you

1                         A.B. Nelson

2     have in front of you, you say that Mr. Orsaris  
3     placed you in a hostile work environment; is  
4     that correct? Do you see that in there, which  
5     is on the fourth line?

6                         A         Exhibit C you said?

7                         Q         Exhibit B.

8                         A         B. I'm sorry.

9                         Q         On the fourth line down, you say  
10    Orsaris placed me in a hostile work  
11    environment. Do you see that?

12                        A         Yes.

13                        Q         Can you explain what you mean by  
14    that?

15                        A         Basically what I do mean about  
16    that is Mr. Orsaris creating hostility by one,  
17    racial discriminatory, you know, saying things  
18    to customers, screaming and hollering at me  
19    for things that I did not do, come running  
20    across the floor into a back office and accuse  
21    me of using bad language on the floor when  
22    actually it was Robert Taylor, the guy who  
23    sits in front of me, and not even opening my  
24    mouth and people saying but he's not saying  
25    anything. Just, you know, focusing on ways to

1                   A.B. Nelson

2     attack me which creates hostility.

3     Introducing me to a customer that I might be  
4     going to explain certain features of a vehicle  
5     and saying this is Tony Nelson, don't let him  
6     talk you to death. What does that mean?  
7     These are things that create hostility when  
8     you disrespect a person in front of another  
9     person and you don't even know that person, so  
10    hostility, yes, going from the gas station  
11    back, going forward, you know, making fun,  
12    disrespectful remarks. Those things create a  
13    hostile work environment. In other words, you  
14    come to work and you don't want people trying  
15    to make fun of you and goofing on you and  
16    saying things about you. This is the hostile  
17    environment that I'm speaking of.

18               Q     Did that start from the time you  
19    became employed there in February 2016?

20               A     He excluded me, which I did not  
21    know --

22               Q     That is not my question.

23               A     What's the question?

24               Q     When he started his employment  
25    there in February 2016?

1                   A.B. Nelson

2                 A     I don't remember if it started  
3     that week, but as we grew to know each other,  
4     these things started to develop and started  
5     like anything developed.

6                 Q     When you started describing the  
7     hostility, am I correct to say that this  
8     hostility was based on work-related activity  
9     and behavior?

10                 MS. LILBURN: Objection.

11                 A     Can you expand on that.

12                 Q     It was related to work issues; is  
13     that correct, the hostility?

14                 MS. LILBURN: Objection.

15                 A     Some of it is related to work and  
16     some of it is not. It's just related to being  
17     crude and rude to people.

18                 Q     In all the comments that he said  
19     to you from the time you started to the time  
20     you made the complaint in September of 2017,  
21     other than the Uncle Ben and the Bill Cosby  
22     comments, which we already talked about, were  
23     there any other issues, the screaming and the  
24     running and the accusing you of using bad  
25     language, was any of that racial comments or

1                           A.B. Nelson

2       age comments?

3                           MS. LILBURN: Objection.

4       Q                  That you can remember.

5       A                  Some of them had to do with age,  
6       which we spoke about earlier.

7       Q                  Other than what we spoke about  
8       earlier, when you describe being placed in a  
9       hostile work environment, can you identify any  
10      specific time that you were placed in a  
11      hostile work environment, a specific time and  
12      a specific statement rather than generalizing  
13      like you did?

14                         MS. LILBURN: Objection.

15      A                  The only way to answer that  
16      question is it is a generalization because it  
17      happened so much, customer after customer.  
18      Even a young lady that lives a block away from  
19      me, customer after customer, like making an  
20      introduction and then insulting your product  
21      specialist in front of a customer. This is  
22      for the Mitsubishi vehicles because, you know,  
23      when a person buys a new vehicle, even if they  
24      buy an old one, but --

25      Q                  Mr. Nelson, I appreciate what you

1                           A.B. Nelson  
2    are saying and I don't want to cut you off,  
3    but I'm going to ask you to answer my  
4    question. I will ask you the question again.  
5    Do you remember any specific statements or any  
6    specific time or location at Victory when Mr.  
7    Orsaris conducted himself that way?

8                           A         Yes.

9                           Q         Can you be specific, please.

10                          A         The exact date? Are you asking  
11                          me to get specific and tell you dates? I  
12                          don't have anything to refer to. Is that what  
13                          you're asking me? I cannot give you exact  
14                          dates, sir.

15                          Q         You cannot give me exact dates?

16                          A         Right.

17                          Q         Can you give me exact statements  
18                          that he said that would support your statement  
19                          in this action. You said he placed you in a  
20                          hostile work environment. I am asking you,  
21                          rather than generalizing, tell me the  
22                          statements that were made? I understand you  
23                          cannot identify the time period that he made  
24                          it or specific times, so now I'm asking you  
25                          what were the words that he used?

1                   A.B. Nelson

2                   MS. LILBURN: Objection.

3                   MR. HANS: What were the words he  
4                   used?

5                   MS. LILBURN: Your question was  
6                   complex and long.

7                   Q         You described a hostile work  
8                   environment. You have testified to things. I  
9                   am asking you to be specific as to what he  
10                  said?

11                  A         Let's start. Go home and get  
12                  your gun.

13                  Q         Sir, I'm not asking you about  
14                  what is in your EEOC complaint and your  
15                  complaint. We are going to get to the gun  
16                  issue and all that in a little bit.

17                  A         But that's a statement.

18                  Q         Let me put it to you a different  
19                  way then. Is creating the hostile work  
20                  environment, is it based on what is in this  
21                  complaint, and if that is it, then that is  
22                  fine? Is this how he created a hostile work  
23                  environment?

24                  A         Partially, yes.

25                  Q         Tell me the one that is not in

1                           A.B. Nelson

2 there?

3                           A         Okay. The times that he  
4 introduced me to people and made jokes as he  
5 was introducing me to them. That's numerous  
6 times.

7                           Q         Tell me what he said?

8                           A         This is my Mitsubishi specialist.  
9 Don't let him talk you to death, ha ha, and  
10 then he would walk off. I don't understand  
11 that. That to me --

12                          Q         Let me interrupt you. That  
13 comment created a hostile work environment?

14                          A         Of course it does. Why would you  
15 introduce a grown man to somebody and make  
16 some snipid (phonetic) remark like that when  
17 he is presenting a product for a blue chip  
18 company who is your top guy. Why would you do  
19 that?

20                          Q         Tell me other comments that were  
21 said?

22                          A         He accused me of using profanity  
23 on the floor when, in fact, it was actually  
24 somebody else, but a lot of people have used  
25 strong language on the floor. I am not one

1                   A.B. Nelson

2    that uses it. He has accused me of that, yes.

3                   Q         When he accuses you of using  
4    profanity, to you that creates a hostile work  
5    environment; yes or no?

6                   A         Yes.

7                   Q         What else besides that? Was that  
8    sufficient? You mentioned the incident with  
9    the customer.

10          A         The customers, plural.

11          Q         Accusing you of using profanity  
12    and what you have contained in your EEOC  
13    filing. Is that in sum and substance the  
14    hostile work environment that he created; yes  
15    or no?

16          A         So what do we have now?

17          Q         Sir, it is not what we have. You  
18    testified to him accusing you of using  
19    profanity and introducing you the way you just  
20    testified to customers and we have what is in  
21    this paragraph, which we'll get to in a little  
22    bit. Is that how he created the hostile work  
23    environment; yes or no?

24          A         Yes.

25          Q         That's it?

1                           A.B. Nelson

2                           A         Yes.

3                           Q         Now we know. I want to go back  
4                           to one thing you said before. You said  
5                           something about every customer and every  
6                           customer you saw, customer after customer  
7                           after customer. Do you remember that, sir?

8                           MS. LILBURN: Objection.

9                           A         I did say that, yes.

10                          Q         You sued my client for something  
11                          horrible, something very bad, discrimination.  
12                          I am asking you, sir, do you have one  
13                          customer's name that would support that  
14                          allegation; yes or no?

15                          MS. LILBURN: Objection.

16                          A         I can't answer that question.

17                          Q         Why can't you answer that  
18                          question?

19                          A         Because I have names, but I have  
20                          no idea if they would remember the situation  
21                          or even want to be bothered with it, so I  
22                          can't answer that question.

23                          Q         Mr. Nelson, I know up until this  
24                          deposition you had been representing yourself.  
25                          I am going to say this as kind as I can, but

1                           A.B. Nelson  
2     in the discovery demands, you were asked if  
3     you have any witnesses to your complaints or  
4     what you have set forth here. You did not in  
5     your disclosures in this case, and up to this  
6     point, ever identify the name of a customer,  
7     so maybe that is an oversight, but there is  
8     not going to be any oversight after today. I  
9     am asking you flat out. Do you have the name  
10    of a customer that is going to support you in  
11    this case; yes or no?

12                          MS. LILBURN: Objection.

13                          A       I don't know -- I don't believe I  
14    know the answer to that question.

15                          Q       Sir, when you say you do not  
16    believe you know, you need to explain to me  
17    what you mean by that?

18                          MS. LILBURN: Objection.

19                          A       What I mean by that?

20                          Q       What do you mean by that?

21                          A       When I mean by that is I might  
22    know who one or two of those parties might be  
23    and have their name and address. I don't even  
24    know if they still live there anymore, but I  
25    don't know if they would remember that.

1                   A.B. Nelson

2                 Q     Can you identify the name of a  
3     person who you think may be able to support  
4     you in this case; yes or no?

5                 A     I will pass on that question.

6                   MR. HANS: You want to call the  
7     magistrate on this? Do you want to talk  
8     to him and I will leave the room?

9                   MS. LILBURN: What do you mean  
10    you'll pass on it? Is it because you do  
11    not know?

12                  MR. HANS: You may want to talk  
13    to your client alone on this.

14                  (Whereupon, at 11:48 a.m., a  
15    discussion was held out of the room  
16    between Ms. Lilburn, Ms. Ortiz and the  
17    witness.)

18                  (Whereupon, at 11:54 a.m., the  
19    examination resumed.)

20   CONTINUED EXAMINATION BY MR. HANS:

21                 Q     Mr. Nelson, other than the two  
22   attorneys that are representing you today, did  
23   you speak to anybody else during the break?

24                 A     During the break?

25                 Q     During the break that you were

1                   A.B. Nelson

2     outside of the room, did you speak to anybody  
3     else besides your two attorneys?

4                   A        Just the three of us. That was  
5     it.

6                   Q        Listen to my question. I know  
7     you were out there for a good five minutes  
8     prior to my question. My question is that you  
9     have referenced in your filings in this case,  
10    you mentioned customers, and in your testimony  
11    today you said customers would hear things  
12    said about you and hostility and all of that.  
13    What I am asking you is today, for any part of  
14    this case, do you have the name of any  
15    customers that will support anything you are  
16    saying in this case that you plan to bring  
17    into this case?

18                  MS. LILBURN: Objection.

19                  A        Yes.

20                  Q        Why doesn't my client have the  
21    name of that customer as we sit here today?

22                  A        I don't know the name, so yes. I  
23    do, but I do not know the name.

24                  Q        What do you base yes, I do on if  
25    you do not know the name?

1                           A.B. Nelson  
2                           A       What do I base it on?  
3                           Q       That is the question, sir.  
4                           A       I base it on that I can find out  
5                           the name.

6                           Q       How can you find out the name?  
7                           A       How can I find out the name?  
8                           Q       You keep repeating my questions,  
9                           sir.  
10                          A       I can find out the name by  
11                          looking at my deals.

12                          Q       Does that mean you will recognize  
13                          the name or that you will call these people to  
14                          see if they know anything about the  
15                          allegations you have made in this complaint?

16                          A       Both. I will recognize the name  
17                          and I will call them.

18                          Q       Mr. Nelson, are you aware of the  
19                          fact that my client has given you over 200  
20                          pages of documents pursuant to your discovery  
21                          demands and everything that we have, including  
22                          those possible names, we have already given.

23                          MS. LILBURN: Objection.

24                          A       Can you repeat that.

25                          (Whereupon, at this time, the

1                           A.B. Nelson

2                           requested portion was read by the  
3                           reporter.)

4                           Q         You had a chance to review all  
5                           the discovery, which includes all of the names  
6                           of people that you have dealt with, all the  
7                           deals that you had been part of. It has all  
8                           been given to you in discovery, so you had a  
9                           chance to review it. I'm asking you today did  
10                          you review those documents to identify the  
11                          names of customers that you believe could  
12                          support your case?

13                          A         I looked at those documents, but  
14                          the addresses are not there. It's the  
15                          addresses that are key to finding those  
16                          people.

17                          Q         Do you believe that my client  
18                          absolutely has the address of the customer?

19                          A         Sure. I am not asking for it,  
20                          but sure. I am not asking for it. I probably  
21                          have it. I would have to look through my  
22                          deals.

23                          Q         Are you saying that you probably  
24                          have the information that will educate you as  
25                          to the names of customers that you believe may

1                           A.B. Nelson

2     possibly support the allegations in the  
3     complaint?

4                           A       Yes.

5                           Q       And you have those names, those  
6     documents?

7                           A       I would have to -- the wage --  
8     that group of documents is with the other law  
9     firm.

10                          Q       Which other law firm?

11                          A       DePaul & Schaefer.

12                          Q       You believe that you could go  
13     through the documents of deals that you were  
14     part of and those documents will identify  
15     customers that you would do what with? What  
16     would you do with the names that you would  
17     see? Would you call those customers?

18                          A       If need be so, because I don't  
19     want to disturb people for our little  
20     situation that's going on here, but if it is  
21     absolutely necessary that I have to do that,  
22     then yes.

23                          Q       What makes it necessary?

24                          A       What makes it necessary that  
25     you're probably going to demand that I produce

1                           A.B. Nelson

2   those names. That's what the conversation is  
3   about right now, right?

4                           Q         Do you have those names?

5                           A         I'm sure that I do.

6                           Q         Why didn't you give them to us in  
7   discovery?

8                           A         Why?

9                           Q         Yes.

10                          A         Maybe because it was an  
11   oversight. I would have to say that. It was  
12   overlooked. I did not know that we would  
13   involve actual Mitsubishi customers and  
14   inconvenience them. I just thought it was not  
15   material to add that and to just go with  
16   either witnesses or people that I worked with  
17   and so that's the reason why. I just -- plus  
18   the fact that most of those documents are in  
19   the other wage allegation -- I mean litigation  
20   or whatever is going to happen with that.

21                          Q         But you testified in this case  
22   and in writing you said the customers were  
23   witnesses to the discrimination that you are  
24   claiming in this case; do you recall that?

25   You just testified to that, correct?

1                           A.B. Nelson

2                           A         They're witnesses. Okay.

3         They're witnesses to the hostility part where  
4         I am explaining to you how I was introduced to  
5         customers, people I did not even know, how I  
6         was introduced to them in the disrespectful  
7         way that the introduction was done.

8                           Q         Is your testimony changing now in  
9         the sense that the only thing the customers  
10        were witnesses to was the disrespectful way  
11        you were introduced or were they witnesses to  
12        anything else?

13                          MS. LILBURN: Objection.

14                          A         I cannot answer if they were  
15        witnesses to anything else, but someone -- I  
16        was actually introduced to someone -- a lot of  
17        things happened and there were witnesses, yes,  
18        but I don't know who witnessed what. I don't  
19        know if it's my customer or other customers,  
20        but I do know that the people that I had any  
21        type of connection to, whether it was through  
22        being introduced, you know, being introduced,  
23        these things happened.

24                          Q         You said when I asked you do you  
25        have the name of any customer that witnessed

1                   A.B. Nelson

2   or heard any of the offensive statements, you  
3   said I will pass and then you went outside to  
4   speak to your attorney; do you remember that?

5                   A         I said I will pass because when I  
6   asked you -- your question to me was would  
7   they -- your question to me in that yes or no  
8   question, you're asking me if a person is  
9   going to speak on my behalf and how would I  
10   know that.

11                  Q         No. That's not my question. I  
12   will ask it again. This time you may not have  
13   to pass.

14                  Do you, as you sit here today,  
15   have the name, forget the address, the name of  
16   one customer that you know that will support  
17   any of the allegations you have made in this  
18   complaint, including your testimony here  
19   today?

20                  MS. LILBURN: Objection.

21                  A         What do you mean by support?

22                  Q         Any customer that will testify on  
23   your behalf in this case about anything that  
24   you have said?

25                  MS. LILBURN: Objection.

1                   A.B. Nelson

2                 A      I am not sure what they would do,  
3      so that's why I said what I said. Yes, I do  
4      have names, but I don't know if they will.

5                 Q      I would like you to give us the  
6      names right now.

7                   MS. LILBURN: Objection. He said  
8      he did not know the names as we sit here  
9      now.

10                  MR. HANS: He just said he does  
11      have the names.

12                  MS. LILBURN: He said he has  
13      names in his possession.

14                  MR. HANS: I'm going to ask you  
15      to stop.

16                  MS. LILBURN: I'm just trying to  
17      help clear this up.

18                  MR. HANS: Don't you testify.  
19      You know that is ethically improper.

20                 Q      Mr. Nelson, I am asking you if  
21      you actually have the names of possible  
22      customers?

23                 A      Yes.

24                 Q      What are those names?

25                 A      I don't know the names. I don't

1                   A.B. Nelson

2 have it in front of me.

3                 Q     Why do you say that you have it?

4                 A     Why do I say I have it?

5                 Q     Yes.

6                 A     I say I have it because when I do  
7 a deal and I get their insurance for them and  
8 all of that, I have most of the bills of sale  
9 for the customers that I sold cars to. A copy  
10 of it wrapped up with some of the documents --  
11 the bill of sale, a copy of their insurance  
12 and all of the things that are needed in case  
13 upstairs needs to go back to the deal, so I  
14 have deals and I have customer information, so  
15 on memory, on recollection, okay, and one of  
16 them lives down the street from me, so I know  
17 her address, okay.

18                 Q     Who is that person?

19                 A     I said I don't know the name. I  
20 have to do it by address. I just said that  
21 like ten times already. I would have to look  
22 at the documents.

23                 Q     Is what you're saying today is  
24 you believe customers will support you and you  
25 have names, but you don't know which customers

1                           A.B. Nelson

2   would and which customers would not?

3                           A         Yes. I did say that.

4                           Q         Is that your testimony today?

5                           A         You're saying that.

6                           Q         I'm asking you a question, sir,  
7   and I will repeat it. Is what you are saying  
8   today is you have a list or papers that  
9   identify customers that you have dealt with  
10   that you believe can possibly support your  
11   case and you will have to check with them to  
12   see if they would; is that true or not?

13                          A         It's true, yes.

14                          Q         Have you talked to one customer  
15   about the allegations that you made in this  
16   complaint; yes or no?

17                          A         No.

18                          Q         Do you have contact information  
19   for any of these customers?

20                          A         I would have to look through the  
21   documents.

22                          Q         How long would it take you to  
23   look through the documents and identify which  
24   customers you think would support your case,  
25   how many days will it take?

1 A.B. Nelson

2 A I don't know, Tuesday, Wednesday.

3 Are we counting the weekend --

4 Q So by Tuesday or Wednesday of  
5 next week --

6 A Let's say Wednesday of next week.

7 Q By Wednesday of next week, you  
8 will be able to identify the names and any  
9 information you have about any customer that  
0 would support your allegations in this  
1 complaint?

12 A If I find those documents, yes.

13 Q If you don't find those  
14 documents --

15 A Then I will let you know.

16 MR. HANS: Off the record.

20 (Whereupon, at 12:09 p.m., the  
21 examination resumed.)

22 CONTINUED EXAMINATION BY MR. HANS:

23 Q Mr. Nelson, with respect to these  
24 customers, are they customers that actually  
25 purchased vehicles or gave information to

1                   A.B. Nelson

2     Victory, or are they customers that just  
3     happened to walk into the place and did not  
4     give any name or anything else?

5                   A       These are customers that  
6     purchased vehicles. That's why I have a  
7     record of documents to look at to provide  
8     those names for you.

9                   Q       Is it your testimony that you  
10    would look at all these documents and what  
11    would cause you to remember that a certain  
12    customer may have heard something that is  
13    relevant in this case?

14          A       I would have to look. I don't  
15    know.

16          Q       What would be on that document  
17    that would trigger you the ability to say this  
18    customer would know?

19          A       The address of one particular  
20    one.

21          Q       What county is that address?

22          A       Bronx.

23          Q       Do you know what area in the  
24    Bronx this person lives?

25          A       Northeast Bronx.

1                           A.B. Nelson

2                           Q     Do you know what street?

3                           A     At the moment, no.

4                           Q     Do you have anything at home that  
5     would give you that information?

6                           A     I don't know.

7                           Q     What is it about these documents  
8     that you would be able to look at that you can  
9     pair it up with the comments that were made by  
10   Mr. Orsaris?

11                          A     Because it will refresh my  
12    recollection and then I would know.

13                          Q     What would refresh your  
14    recollection, the name of the person or the  
15    deal?

16                          A     It's a Mitsubishi deal.

17                          Q     We understand that. When you see  
18    the name, would that name say that's the time  
19    that Mr. Orsaris --

20                          A     Yes.

21                          Q     So the name would trigger your  
22    ability to remember Mr. Orsaris's hostile  
23    comments?

24                          A     I don't know what would trigger  
25    it. I don't know what mechanism would trigger

1                   A.B. Nelson

2   it because I have not done it yet.

3                 Q         How would you be able to look at  
4   the records of customers and say this customer  
5   heard Mr. Orsaris say what he said? How can  
6   that happen if the names do not trigger  
7   anything to you?

8                   MS. LILBURN: Objection.

9                 A         Maybe it's the address that will  
10 trigger it. Maybe it's the vehicle that will  
11 trigger it. It can be anything that can  
12 trigger it. It can be numerous things that  
13 can trigger the identity of the customer that  
14 we are speaking of.

15                Q         Have you to this day talked to  
16 any customer of Victory?

17                A         Sure. Some of them are friends  
18 of mine.

19                Q         About this case?

20                A         About the case?

21                Q         Yes.

22                A         I mentioned it.

23                Q         To who?

24                A         The gentleman I sold the Jaguar  
25 to.

1                           A.B. Nelson

2                           Q         What is his name?

3                           A         His name is James. I don't know  
4     his last name.

5                           Q         When did you talk to James?

6                           A         He called me up to complain that  
7     his car was a lemon. He called me on my cell  
8     phone.

9                           Q         Do you still have that phone  
10    number?

11                          A         I don't know. I can get it for  
12    you if you want it by next Wednesday. I can  
13    get it for you along with the rest of the  
14    stuff.

15                          Q         I wish you would.

16                          A         Sure.

17                          Q         Did you talk to this fellow named  
18    James about the allegations you have made in  
19    this case?

20                          A         Not in detail.

21                          Q         Did you discuss it at all?

22                          A         I discussed it because he  
23    wondered why I wasn't there and I told him  
24    there was a lawsuit going on, a wage lawsuit,  
25    and I have a discrimination case, you know. I

1                           A.B. Nelson

2 have a Title 7 lawsuit.

3                           Q         What did he say to you?

4                           A         He said I'm sorry to hear that or  
5 something to that effect. I don't remember  
6 exactly. He called me about his car and not  
7 about my problems.

8                           Q         Is he supporting you as a witness  
9 in this case?

10                          A         I did not say that he was. I  
11 never asked him about that. I did not ask him  
12 to support me as a witness in any case.

13                          Q         Did he volunteer any statement  
14 other than what you just testified to?

15                          A         No. We talked about his vehicle.

16                          Q         So we have an agreement by next  
17 Wednesday that you will be able to give us the  
18 names and addresses of any customers that you  
19 believe will support your allegations,  
20 correct?

21                          A         Yes.

22                          Q         Have you made any calls to any  
23 customers canvassing any customers to see if  
24 they would support you?

25                          MS. LILBURN: Objection.

1                   A.B. Nelson

2                 A     I did not want to disrespect the  
3     customers by involving them in this, so no. I  
4     have not made any calls. I tried to have some  
5     type of courtesy. They came to buy a car and  
6     not to get involved, so I have not called  
7     customers. The only calls I got were  
8     customers calling me with complaints about  
9     certain things, but I have not reached out to  
10    people and asked them to support me in this  
11    litigation.

12               Q     You said in Exhibit B, you said  
13    with respect to Alex Lettas that he would make  
14    racially motivated statements about people of  
15    color.

16               A     Yes.

17               Q     Are you referring to Mr. Lettas's  
18    statement about the Uncle Ben and the Bill  
19    Cosby statement which is in that complaint?

20               A     I'm referring to all of Alex  
21    Lettas's constant statements being the Rodney  
22    Dangerfield of racist jokes in the store.

23               Q     When I questioned you before, you  
24    said that the racial comments that were made  
25    were limited to Uncle Ben and Bill Cosby and

1 A.B. Nelson

2 the niggerative statement, correct?

3 MS. LILBURN: Objection.

4 Q Are you testifying that there are  
5 more statements than what you put in your  
6 complaint and your EEOC?

7 A I believe we were talking about  
8 Chris at the time.

9 Q We were not talking about Chris.  
10 We were talking generally speaking. Is it  
11 your testimony that there were more than these  
12 comments that you have, more comments made  
13 about race than what you have in your  
14 complaint?

15 A Yes.

16 Q By whom?

17 A By Alex Lettas.

18 Q What did he say that is in  
19 addition to what is in the EEOC complaint?

20 A What kind of racial comments?

21 Q Yes.

22 A Let me see. Let me start  
23 thinking of some. You're eating your lunch  
24 and you have fried chicken. He comes up or he  
25 comes over and he says to you what are you

1                           A.B. Nelson  
2     eating, fried chicken. Is that relevant to  
3     your race. Let me see what else. The store  
4     buys cars from people. They're online on  
5     different -- Kelly Blue Book, Car Purchaser.  
6     For some reason he could not buy this amazing  
7     BMW and him and this fellow somehow they got  
8     into it, whatever. They disagreed upon stuff  
9     and the guy left. As I walked across the  
10    street to carry the mail from that store over  
11    to the other side of the street, he was  
12    walking with me, and because he flagrantly  
13    says things about minorities, he said that  
14    fucking spic and I turned around and I looked  
15    at him and I had something to say about that.

16                        Q        This is all Alex Lettas, right?

17                        A        Yes. It's a bunch of Alex Lettas  
18    stuff. It's a bunch of stuff.

19                        Q        What is a bunch?

20                        A        You have it in the discovery  
21    stuff that I sent you.

22                        Q        Are you talking about the  
23    responses to the first set of interrogatories?

24                        A        Documents. You have it.

25                        Q        Let us go through it. I show you

1 A.B. Nelson

2 what was marked as Exhibit E. I am giving you  
3 D and E.

4 A Yes.

5 Q Looking at your responses to the  
6 defendants' interrogatories on Page 4,  
7 Subsection D, the third paragraph --

8 A Is that Exhibit E?

9 Q Those are the responses,  
10 plaintiff's responses, Exhibit E. Go to Page  
11 4.

12 A Yes.

13 Q You will see a paragraph there  
14 where you start to talk about Alex Lettas's  
15 offensive comments. You mentioned some of the  
16 comments in here that you just testified to,  
17 but you also said, and I want you to be sure  
18 of this answer, you said this, meaning these  
19 comments, were witnessed by Mia Giller, Erica  
20 Zoungrane, Brian, David Ramos and Juan  
21 Palanco.

22 Is it your testimony that those  
23 individuals know that those statements were  
24 made?

25 A Yes, they do.

1                           A.B. Nelson

2                           Q         Have you talked to any one of  
3                           them about being a witness in this case?

4                           A         I spoke to them about being a  
5                           witness.

6                           Q         Who did you speak to?

7                           A         Not only did I speak, but there  
8                           were text messages also, which would be Mia  
9                           Giller, Erica.

10                          Q         Do you have a text message with  
11                           Erica?

12                          A         I don't have any text messages  
13                           with Erica, no.

14                          Q         Did you speak to Erica?

15                          A         Yes, I did.

16                          Q         Is Erica supporting you in this  
17                           case?

18                          A         She does not want to get  
19                           involved. I'm just saying who was a witness.

20                          Q         You said she did not want to get  
21                           involved. What about Brian. Did you speak to  
22                           Brian?

23                          A         Yes, I did.

24                          Q         What did he say?

25                          A         He said he would, but he fell off

1                           A.B. Nelson

2     the face of the earth and we do not know where  
3     he is.

4                           Q       And David Ramos?

5                           A       He witnessed it. I am not saying  
6     that he would get involved because maybe his  
7     job is on the line and maybe he just does not  
8     want to get involved.

9                           Q       And Juan Palanco?

10                          A       Juan Palanco will speak on my  
11   behalf and I just spoke with him last week.

12                          Q       I am sure he will. Are you aware  
13   that Juan Palanco is also suing Victory for  
14   wages?

15                          A       Of course. I'm very much aware.

16                          Q       What is contained in that  
17   paragraph that we just referenced are the  
18   racially-motivated statements by Mr. Lettas;  
19   is that correct?

20                          A       Those are some of them. There  
21   are dozens of them. I just put enough that  
22   you would know. It's not that I added every  
23   one, but there's plenty of them.

24                          Q       How often would he make racially-  
25   motivated comments?

1                   A.B. Nelson

2                 A     He would say something every day  
3     of the week if he could say it.

4                 Q     I am not asking if he could say  
5     it, but did he say it?

6                 A     Yes, once a day and sometimes  
7     twice a day.

8                 Q     Are there any other witnesses to  
9     the twice a day statements than the people  
10   that you have identified in that paragraph?

11                A     There might be, but I think I was  
12   only allowed a certain amount of people, a  
13   certain amount of witnesses, so those that I  
14   can recall are the ones that I put in there.

15                Q     I am not your lawyer, but I can  
16   tell you that there is no limit on the amount  
17   of witnesses in a case.

18                A     Thank you.

19                Q     I'm going to ask you today. Do  
20   you have any additional witnesses besides the  
21   ones that you have listed here with respect to  
22   Mr. Lettas?

23                A     I can safely say yes. There  
24   might be one or two others.

25                Q     When you say it safely, does that

1                   A.B. Nelson

2 mean you know the names?

3                   A         Not at this time. I don't know  
4 the names at this time.

5                   Q         Then why would you say safely I  
6 have additional names?

7                   A         Because so many people have come  
8 and gone through the doors that I cannot  
9 remember right this very second, you know, to  
10 produce names for you right now based on that  
11 question.

12                  Q         You used the word safely, not me.

13                  A         I did.

14                  Q         So you felt confident that you  
15 know that there's somebody else besides these  
16 people that know that Mr. Lettas made these  
17 comments?

18                  A         Yes.

19                  Q         How soon would you be able to  
20 identify anyone else?

21                  A         I will try to have that by the  
22 same day as the other stuff.

23                  Q         By this coming Wednesday?

24                  A         Yes.

25                  Q         You will be able to identify the

1                   A.B. Nelson

2       name and address of anybody else, correct?

3                   A       Your client will have to produce  
4       the address. Now it's not Wednesday because I  
5       have to put more time on this because after I  
6       give you the names, you're going to have to go  
7       into --

8                   Q       Let us leave Wednesday as the  
9       date when you will give us the names and you  
10      give us whatever address you may have, and if  
11      you don't, we will take it from there. Is  
12      that an agreement?

13                  A       Yes.

14                  Q       And you are going to serve that  
15      on my office by email on Wednesday?

16                  A       The names?

17                  Q       Correct.

18                  A       Yes.

19                  Q       With the other information that  
20      you said you will have on Wednesday?

21                  A       Right, the Mitsubishi customer,  
22      right.

23                  Q       Do you have any other evidence of  
24      Mr. Lettas's comments other than what you  
25      testified to just now?

1                           A.B. Nelson

2                           A         I found an old phone and it had a  
3         video and I kept that video. It's Mexican  
4         babies practicing to climb the wall on the  
5         Texas border.

6                           Q         Why do you not have a copy of  
7         that video?

8                           A         Because I just found that phone.  
9         That phone was messed up. Actually, it wasn't  
10       in working condition.

11                          Q         Let me stop you here. You found  
12       the phone belonging to who?

13                          A         It's my phone. I have multiple  
14       phones.

15                          Q         And you have a video in there?

16                          A         Yes.

17                          Q         Of Mexican babies, you said?

18                          A         Yes.

19                          Q         Why is that video on your phone?

20                          A         Because people send stuff to  
21       people.

22                          Q         So this is a video that was sent  
23       to you; yes or no?

24                          A         Yes.

25                          Q         Who was it sent to you by?

1                   A.B. Nelson

2                 A     I believe it was sent by Alex.

3                 Q     You believe?

4                 A     Yes, because he's the one that  
5     showed me. It's not only that one. Any video  
6     of stuff like that, that was all Alex Lettas.  
7     I don't look up those kinds of videos. I have  
8     no interest in that.

9                 Q     The phone that you just found,  
10    that phone that you found, does that reveal  
11    who the video was sent by?

12                A     I don't know. What happens is,  
13    when somebody sends you a video, you can save  
14    it.

15                Q     I'm going to ask for production  
16    of that phone.

17                MR. HANS: Counsel, you may want  
18    to get involved in this because I want  
19    to inspect the phone, and I believe it  
20    should be under your auspices.

21                MS. LILBURN: If it is a  
22    discovery dispute, I am happy to help  
23    Mr. Nelson, but it is outside the scope  
24    of our representation.

25                MR. HANS: I would want to view

1                   A.B. Nelson

2                   the video and the phone and then I may  
3                   want to have an expert look at it.

4                   THE WITNESS: I can see if I can  
5                   get it put on a stick. It's my phone.  
6                   I want you to know that.

7                   Q         If you are telling us today that  
8                   you intend to use that video in this case,  
9                   then my input on that phone is relevant.

10                  A         I'm willing to share the video  
11                  with you off the phone just like the text  
12                  messages.

13                  Q         It does not work like that.

14                  A         It just did a few weeks ago.  
15                  What happened now?

16                  Q         It does not work that way because  
17                  of this. If you have a video that you intend  
18                  to use in this case, I want to have, at a  
19                  designated time and place under stipulation,  
20                  possession of that phone to have an expert  
21                  examine it.

22                  A         That phone may have some pictures  
23                  of my mother's death on it, her funeral.  
24                  There's a lot of personal stuff on that phone  
25                  that I don't feel I have to share with you

1                           A.B. Nelson  
2 because of this case, but I will share the  
3 information with you. I will meet you  
4 halfway. I will share the information with  
5 you, and if that is a problem, I will send the  
6 judge a letter, Monday morning, and explain to  
7 him what you are trying to do.

8                           MR. HANS: You're not going to  
9 get involved in this dispute, Counsel?

10                          MS. LILBURN: This conversation?

11                          MR. HANS: No. What I want, if  
12 your client intends to use that video in  
13 this case, which I have not seen, you  
14 know and I know that I have a right to  
15 have an expert examine the phone. Any  
16 lawyer knows that. I am not sure he  
17 understands my right to do that if he  
18 intends to use the phone. I have no  
19 interest and I have great respect for  
20 his family and the private videos or  
21 private photos that are on that phone.  
22 I don't quarrel with it. I don't want  
23 to see it. I don't want anything to do  
24 with it and the expert has no interest  
25 in that either. What I would want to do

1                           A.B. Nelson  
2                           is take the phone and have an expert  
3                           examine the video and where it came from  
4                           that he intends to use before a jury in  
5                           this case.

6                           THE WITNESS: With me present?

7                           MR. HANS: I don't know if that  
8                           happens or not. We will see what the  
9                           judge says.

10                          Are you going to jump in on this  
11                          or not?

12                          MS. LILBURN: I am not contesting  
13                          that you have a right to inspect the  
14                          phone. You guys have been sharing  
15                          information and he has technical  
16                          limitations obviously. His concern is  
17                          whether or not you have access to  
18                          material that is not relevant.

19                          MR. HANS: We probably have to  
20                          bring this to the magistrate because if  
21                          he does not want to release the phone or  
22                          want to be around when it is examined, I  
23                          guess that's something we will have to  
24                          navigate.

25                          MS. LILBURN: We can talk how he

1                   A.B. Nelson

2                   technically will obtain the information,  
3                   but I'm not disputing that you do have a  
4                   right to view it.

5                   Q         Mr. Nelson, do you have any other  
6                   evidence other than the video, other than the  
7                   comments that you just testified to today, and  
8                   what you put in your papers in this case of  
9                   Mr. Lettas's racially-motivated statements?

10                  A         Any other statements -- can I  
11                  interject on that question for a second. Can  
12                  I say something?

13                  Q         You can respond to my question.  
14                  Do you have an answer, sir?

15                  A         Do I have any other statements  
16                  other than this?

17                  Q         That is right, other than what  
18                  you placed down in that paragraph?

19                  A         There are other statements, but I  
20                  just don't know all of them right now.

21                  Q         Would you be able to take the  
22                  time between now and Wednesday so that you can  
23                  confirm and finalize any statements with  
24                  respect to this case?

25                  A         Yes.

1                           A.B. Nelson

2                           Q         And you will send that to my  
3 office by email?

4                           A         Right.

5                           Q         From 2015 to the time that you  
6 filed your EEOC complaint in 2017, do you know  
7 if there were any other black employees at  
8 Victory Auto; yes or no?

9                           A         Yes.

10                          Q         How many?

11                          A         Probably 65 or 70 percent of the  
12 staff might be black or Hispanic or black and  
13 Spanish people.

14                          Q         Do you know if any of them filed,  
15 during any time of their employment filed a  
16 complaint, whether informally or formally,  
17 with being treated wrongfully because they  
18 were black?

19                          A         I don't know that.

20                          Q         Do you know if any of them  
21 complained about hearing any racially-  
22 motivated statements?

23                          A         Yes.

24                          Q         Who did that?

25                          A         Robert Wood.

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1                   A.B. Nelson

2                 Q     What is it that Robert Wood  
3     complained about?

4                 A     Robert Wood complained about --  
5     do you mean as far as the statements go -- he  
6     complained about age statements. He  
7     complained about Alex's statements.

8                 Q     Who did he complain to?

9                 A     We're sitting there, you know.  
10    He comes by and says something stupid.

11          Q     Who is he?

12          A     We're talking about Alex Lettas.  
13    If I'm sitting there at my desk, which  
14    actually happened to be in front of Robert  
15    Wood's desk, because I sat there for about  
16    maybe a year or so, and then people get moved  
17    around a lot, but the thing is many a times  
18    he's being disgruntled in his remarks about  
19    statements that are either made by Alex or  
20    statements that were made by other people  
21    about age and things of that nature.

22          Q     Robert Wood said that?

23          A     Yes, Robert Wood.

24          Q     Did you take any statement from  
25    Robert Wood?

1                           A.B. Nelson

2                           A         I have not taken a statement from  
3                           Robert Wood. I do not talk to Robert Wood.

4                           Q         Have you talked to Robert Wood  
5                           about this case at all?

6                           A         Yes, I have.

7                           Q         What did you say to Robert Wood?  
8                           Let me put it to you this way.

9                           MS. LILBURN: Objection.

10                          Q         Isn't it true that you tried to  
11                          get Robert Wood to join this case; yes or no?

12                          MS. LILBURN: Objection.

13                          A         No. Robert Wood, back in April  
14                          of 2016, while he was sick in his house up in  
15                          Connecticut, he was so fed up with different  
16                          things going on that he mentioned suing  
17                          whatever or, you know, whatever. He was  
18                          disgusted.

19                          Q         He was disgusted with Victory?

20                          A         Yes.

21                          Q         And he talked about suing  
22                          Victory?

23                          A         He mentioned it. He was supposed  
24                          to meet me to go to the other law firm, DePaul  
25                          & Schaefer. I'm just trying to gather my

1                           A.B. Nelson  
2 thoughts, and he basically stood me up. He  
3 told me he was on his way to the train. He  
4 stood me up in Grand Central Station. When I  
5 got to 28 Liberty Street, he never showed up.  
6 Then he made an appointment with them and he  
7 never showed up. He would flip-flop back and  
8 forth. He was disgusted because we could not  
9 get into -- we were blocked out of the  
10 Mitsubishi intra-site, just numerous things,  
11 and he is the one who spearheaded the idea,  
12 you know, because in conversation, you know  
13 what, maybe I should -- I would say why do you  
14 drive down here if you don't like it. I am  
15 forced to work here because it's near my  
16 house. I don't have transportation. I am  
17 here, but you, you're talking about it, so how  
18 many dealerships did you pass between here and  
19 Connecticut, so basically he is not the  
20 creator of this, but he is pretty much the  
21 creator of this.

22                         Q           Do you know when he started  
23 working for Victory?

24                         A           He started working for Victory --  
25 I was there before him. He may have come on,

1                   A.B. Nelson

2     like so many people came and went, but he's  
3     been there for quite a while.

4                   Q        Was he pretty upset about the  
5     racial treatment at Victory?

6                   MS. LILBURN: Objection.

7                   A        Any time you're going to hear  
8     something like that, I don't care who you are.  
9     Even if you're on the street, you're going to  
10    get upset when you hear denigrating stuff like  
11    that.

12                  Q        I'm going to ask you again  
13    because it is unclear. Did you ask him to  
14    join you as a plaintiff in this case?

15                  A        In this case?

16                  Q        Yes.

17                  A        I can't remember if that came up,  
18    but I would say more than likely I probably  
19    did, since he's the one --

20                  Q        What did he say to you?

21                  A        He just changed all of a sudden.  
22    He just changed. I don't want nothing to do  
23    with this. I don't want to deal with these  
24    fucking lawyers and all this shit. This is  
25    the Robert Wood conversation, you know.

1                   A.B. Nelson

2                   Q         What did you say back to him?

3                   A         There was also a conversation  
4                   about the fire track where all the people who  
5                   worked downstairs -- let's call the Fire  
6                   Department, this and that and the other. Do  
7                   you understand. There was always some  
8                   conversation about these different things, so  
9                   when Alex would come through there and show  
10                  some stupid racist video or something or say  
11                  something, you know. This is ongoing.

12                  Q         Did you take any written  
13                  statement from him or record a conversation  
14                  with him?

15                  A         Did I take any written statement  
16                  from him --

17                  MS. LILBURN: With Robert Wood?

18                  MR. HANS: Yes.

19                  A         I might have recorded a  
20                  conversation. I would have to look at that  
21                  phone because, like I said, it's an old phone  
22                  and, you know, I might, yes.

23                  Q         Did you not know about this phone  
24                  when you complied with the discovery in this  
25                  case?

1                           A.B. Nelson

2                           A         I did not have the phone at the  
3                           time. It was missing.

4                           Q         But it's the same phone?

5                           A         It's not the same phone.

6                           Q         It's a different phone?

7                           A         I have different phones, yes. I  
8                           mentioned that earlier.

9                           Q         So you have a second phone that  
10                          could --

11                          A         I have three phones. There's  
12                          another one that I know is lost and I will  
13                          never get back.

14                          Q         We now know you have two phones  
15                          in your possession that may be relevant in  
16                          this case. One has a video that we talked  
17                          about that we're going to probably have to get  
18                          the court's assistance on for an expert to  
19                          examine it, and the second phone that you have  
20                          has a recorded conversation with you and  
21                          Robert Wood; is that correct?

22                          A         Yes.

23                          Q         Do you plan to use that recording  
24                          in this case; yes or no?

25                          A         I'm not sure. It's not about the

1                   A.B. Nelson

2 racial stuff conversation.

3                   Q         What is it about?

4                   A         Maybe you should call the Fire  
5 Department, but don't call from your phone.

6                   Q         Was there anything in that  
7 conversation spoken about with respect to race  
8 or age?

9                   A         I would have to review it.

10                  MR. HANS: I would want to get a  
11 copy of that, and if you intend to  
12 utilize that recording, I want a copy no  
13 matter what and I want it from the  
14 phone. If you're not willing to give us  
15 the phone and have an expert examine it,  
16 we can add that on to the application.

17                  THE WITNESS: Then have the  
18 expert remove the stuff in front of me  
19 right off the phone. It's very easy.

20                  Q         Anybody else hear Alex Lettas's  
21 statements other than the witnesses that you  
22 have identified in Exhibit E or D and Robert  
23 Wood?

24                  A         Yes, but I would not know who a  
25 lot of them are because there are different

1                   A.B. Nelson

2       sections and different buildings, but in the  
3       witness statement, it's on there.

4                   Q       On where?

5                   A       You have the text messages.

6                   Q       What are you talking about?

7                   A       If other people heard it, the  
8       racial stuff. It's on the text messages that  
9       you have in one of those exhibits. I don't  
10      know.

11                  Q       You gave my office copies of text  
12      messages.

13                  A       I just saw them.

14                  Q       The text messages that you  
15      produced in discovery, that was a conversation  
16      between Alex Lettas and Mia Giller, correct?

17                  A       No. Those are conversations with  
18      Alex Lettas -- about Alex Lettas to me from  
19      Mia Giller.

20                  Q       Other than Mia Giller, which has  
21      been identified as a witness, are there any  
22      other witnesses besides Robert Wood, who is a  
23      new witness today that you now say along with  
24      the people that you identified in the  
25      interrogatories? Is there anybody else who

1                           A.B. Nelson

2         knows what's going on with these racial, age  
3         comments?

4                           A         I'm sure there are. I will say  
5         yes. I can't identify them right now. I have  
6         to go through the employee list and look at  
7         the schedule and then I will realize because  
8         that schedule shows me -- we are bunched up,  
9         you know, ten of us at one place and eight or  
10        nine of us at another place.

11                          Q         Would you be able to identify by  
12        Wednesday the names of any other witnesses in  
13        addition to what you have already identified?

14                          A         Yes, and I will send that to you.

15                          Q         Did Alex Lettas's statements or  
16        words affect your performance on the job or  
17        your health?

18                          MS. LILBURN: Objection.

19                          MR. HANS: What's the objection?

20                          MS. LILBURN: Compound.

21                          Q         Let us do one at a time. Did the  
22        words and statements affect your performance?

23                          A         Yes.

24                          Q         How did it affect your  
25        performance?

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A.B. Nelson

2 A What it does is when somebody  
3 makes those types of statements, you get  
4 pretty mad. You want to do something about  
5 it, but now you're sitting there like a powder  
6 keg because you've been disrespected, so now  
7 instead of focusing on what you're doing,  
8 you're focusing on all this outside  
9 interference.

10 Q How has that affected your  
11 performance?

12                   A           It affects your performance  
13 because now you don't want to work because now  
14 you've been pulled down to the carpet with  
15 idiotic remarks, disrespectful statements, so  
16 forth and so on, and now, you know, they try  
17 to take the wind out of your sails every time  
18 they can do it.

19 Q Would you agree that it makes  
20 your performance less than optimal?

21 MS. LILBURN: Objection.

22 Q Would you agree that it makes  
23 your performance less than satisfactory?

24 MS. LILBURN: Objection.

25 Q Yes or no?

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1                           A.B. Nelson

2                           A         When it happens, it can be less  
3                           than satisfactory. When things are okay and  
4                           nobody is acting ridiculous and disrespecting  
5                           people and you're having a nice day, no.

6                           Q         Which happened more, the good  
7                           days or the bad days?

8                           A         The bad days because constantly,  
9                           not only that, distractions also, a lot of  
10                          distractions and a lot of different projects,  
11                          which I'm sure you will get to that and I  
12                          don't want to overstep you.

13                          Q         We know that Alex Lettas's  
14                          comments affected your performance. Would you  
15                          say substantially?

16                          MS. LILBURN: Objection.

17                          A         Sure.

18                          Q         And that happened more often than  
19                          not, would you agree?

20                          A         Alex or both of them put  
21                          together?

22                          Q         Both of them put together?

23                          A         It happened quite a bit.

24                          Q         Earlier today you said, and it is  
25                          in your papers and I can find it, you said